



# 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 code of the following:

**CONFLICT-OF-INTEREST CODE**

**AMENDMENT**

STATE AGENCY: California Earthquake Authority

A written comment period has been established commencing on September 8, 2023 and closing on October 23, 2023. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, CA 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code, 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 code 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 code. Any written comments must be received no later than October 23, 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 this code because this is not a new program mandated on local agencies by the code 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 code 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 code shall approve the code 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 code should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811, telephone (916) 323-9103.

**AVAILABILITY OF PROPOSED  
CONFLICT-OF-INTEREST CODE**

Copies of the proposed conflict-of-interest code 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, CA 95811, telephone (916) 323-9103.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

The California Department of Food and Agriculture (Department) proposes to make permanent the emergency amendment to Title 3, California Code of Regulations (CCR) Section 3589 Japanese Beetle Eradication Area, which provides authority to the Department to eradicate, by the established means and methods, infestations of Japanese beetle (*Popillia japonica*) in Marin County.

#### PUBLIC HEARING

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to 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 regulations to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on October 24, 2023. The Department will consider only comments received at the Department offices by that date or postmarked no later than October 24, 2023. Submit comments to:

Erin Lovig, Senior Environmental Scientist  
Supervisor California  
Department of Food and Agriculture  
1220 N St  
Sacramento, CA 95814  
[Erin.lovig@cdfa.ca.gov](mailto:Erin.lovig@cdfa.ca.gov)  
916.403.6650  
916.651.2900 (FAX)

Questions regarding the substance of the proposed regulation should be directed to Erin Lovig. In her absence, you may contact Dean Kelch at (916) 261-9252 or [dean.kelch@cdfa.ca.gov](mailto:dean.kelch@cdfa.ca.gov), FAX number (916) 651-2900.

Unless there are substantial changes to the proposed regulations prior to adoption, the Department of Food and Agriculture may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

#### AUTHORITY

The Department proposes to amend Section 3589 pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code (FAC).

#### REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5322, 5761, 5762, and 5763 of the Food and Agricultural Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The specific purpose of amending CCR Section 3589 Japanese Beetle Eradication Area is to expand the eradication area for the Japanese beetle in California to include Marin County. This will allow targeted actions for eradication of Japanese beetle in Marin County, if necessary, and reduce the chance of allowing natural and artificial dispersal and the subsequent spread of the pest in California. Any necessary eradication and quarantine actions taken by the Department will be in cooperation with the USDA and the affected county agricultural commissioners.

#### EXISTING LAWS AND REGULATIONS

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code that the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in her opinion necessary to circumscribe and exterminate or prevent the spread of any pest that is described in FAC Section 5321.

Existing law, FAC Section 5761, provides that the Secretary may proclaim any portion of the state to be an eradication area with respect to the pest, prescribe the boundaries of such area, and name the pest and the hosts of the pest which are known to exist within the area, together with the means or methods which are to be used in the eradication or control of such pest.

Existing law, FAC Section 5762, provides that the Secretary may proclaim any pest with respect to which an eradication area has been proclaimed, and any stages of the pest, its hosts and carriers, and any premises, plants, and things infested or infected or exposed to infestation or infection with such pest or its hosts or carriers, within such area, are public nuisances, which are subject to all laws and remedies which relate to the prevention and abatement of public nuisances.

Existing law, FAC Section 5763, provides that the Secretary, or the commissioner acting under the supervision and direction of the director, in a summary manner, may disinfect or take such other action, including removal or destruction, with reference to any such public nuisance, which he thinks is necessary.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

This regulation will benefit the apple, pears, caneberries, pears, blueberries, cherries, plums, corn, rose, grape, crabapple, turf grass and beans (nursery, fruit for domestic use and exports, packing facilities) and the environment (urban landscapes) by expanding the geographic scope of an eradication program to prevent the artificial spread of the Japanese beetle over short and long distances.

This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

There is no existing, comparable federal regulations or statute regulating the intrastate movement of Japanese beetle.

There are no known specific benefits to worker safety or the health of California residents.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Department considered any other possible regulations addressing Japanese beetle, and it found that these are the proposed amendments are the only regulations dealing with this subject, and the Department is the only State agency which can designate these eradication areas for plant pests. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of Section 3589 and has determined that it is not inconsistent or incompatible with existing state regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Prior to conducting any action authorized by this regulation, the Department shall comply with the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et seq. as amended) and the State CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et seq.).

DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: Compliance activities are currently being performed by existing state staff throughout quarantine areas within the State. The Department is currently monitoring for pests, and thus there is no change to the cost due to these regulations. The Department has determined that no savings or increased costs to any state agency and no costs or savings in federal funding to the State will result from the amendment of Section 3589. The amendment of this regulation would have no fiscal impact on the Department.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

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

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

Cost impacts on a representative private person or business: The amendment of Section 3589 will provide authority for the Department to conduct eradication activities against Japanese beetle in Marin County and there are no known private sector cost impacts. The agency is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The cost impacts are expected to be none and minimal/non-consequential. The Department makes the initial determination that the proposed action will not have a significant, statewide adverse economic impact.

Significant effect on housing costs: None.

Small business determination: The proposed action will not affect small business because compliance activities are currently being performed by existing state staff throughout quarantine areas within the State without any impact on small business.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Department has concluded that the Section 3589 amendment (1) will have no significant impact on the creation or elimination of jobs in the State of California, (2) will have no impact on the creation or elimination of businesses within the State of Califor-

nia, (3) will have no impact on the expansion of businesses within the State of California, (4) is expected to benefit the health and welfare of California residents, (5) is expected to benefit the state's environment, and (6) is not expected to benefit workers' safety.

The health and welfare of California residents: The proposed action will benefit the health and welfare of California residents by preventing increased costs to the consumers of host materials and increased pesticide usage.

The state's environment: The amendment of this regulation benefits the environment (urban landscapes) by providing the Department an eradication program to prevent the artificial spread of the Japanese Beetle over short and long distances. As a general feeder, the Japanese beetle likely poses a serious threat to the general environment and likely some of California's threatened and endangered species. Hosts for this pest also exist in California's natural environment, putting them at risk.

#### CONSIDERATION OF ALTERNATIVES

The Department 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 Department invites interested persons to present alternatives during the written comment period.

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

The Department has prepared an initial statement of reasons for the proposed action, and has made available all the information upon which its proposal is based and the express terms of the proposed action. The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdffa.ca.gov/plant/Regulations.html](http://www.cdffa.ca.gov/plant/Regulations.html)). A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the comment period and 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. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the agency officer named herein.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture (Department) proposes to revise Title 3 of the California Code of Regulations (CCR) Section 3591.12 pertaining to the Peach Fruit Fly (PFF) Eradication Area.

#### PUBLIC HEARING

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to 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 regulations to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on October 24, 2023. The Department will consider only comments received at the Department offices by that date or postmarked no later than October 24, 2023. Submit comments to:

Erin Lovig, Senior Environmental Scientist  
 Supervisor California  
 Department of Food and Agriculture 1220 N St,  
 Sacramento, CA 95814  
[Erin.lovig@cdfa.ca.gov](mailto:Erin.lovig@cdfa.ca.gov)  
 916.403.6650  
 916.651.2900 (FAX)

Questions regarding the substance of the proposed regulation should be directed to Erin Lovig. In her absence, you may contact Dean Kelch at (916) 261-9252 or [dean.kelch@cdfa.ca.gov](mailto:dean.kelch@cdfa.ca.gov), FAX number (916) 651-2900.

Unless there are substantial changes to the proposed regulations prior to adoption, the Department of Food and Agriculture may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

#### AUTHORITY

The Department proposes to amend Section 3591.12 pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code (FAC).

#### REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5761, 5762, 5763 and 5764 of the Food and Agricultural Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The specific purpose of amending California Code of Regulations (CCR) 3591.12 Peach Fruit Fly Eradication Area is to expand the eradication area for the Peach fruit fly (PFF) in California to include Sacramento County. This will allow targeted actions for eradication of PFF in Sacramento County, if necessary, and reduce the chance of allowing natural and artificial dispersal and the subsequent spread of the pest in California. Any necessary eradication and quarantine actions taken by the Department will be in cooperation with the USDA and the affected county agricultural commissioners.

#### EXISTING LAWS AND REGULATIONS

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code

that the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 5321, provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication.

Existing law, FAC Section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in her opinion necessary to circumscribe and exterminate or prevent the spread of any pest that is described in FAC Section 5321.

Existing law, FAC Section 5761, provides that the Secretary may proclaim any portion of the state to be an eradication area with respect to the pest, prescribe the boundaries of such area, and name the pest and the hosts of the pest which are known to exist within the area, together with the means or methods which are to be used in the eradication or control of such pest.

Existing law, FAC Section 5762, provides that the Secretary may proclaim any pest with respect to which an eradication area has been proclaimed, and any stages of the pest, its hosts and carriers, and any premises, plants, and things infested or infected or exposed to infestation or infection with such pest or its hosts or carriers, within such area, are public nuisances, which are subject to all laws and remedies which relate to the prevention and abatement of public nuisances.

Existing law, FAC Section 5763, provides that the Secretary, or the commissioner acting under the supervision and direction of the director, in a summary manner, may disinfect or take such other action, including removal or destruction, with reference to any such public nuisance, which he thinks is necessary.

Existing law, FAC Section 5764, provides that if an eradication area has been proclaimed with respect to a species of fruit flies and the removal of host plants of such species is involved, the director may enter into an agreement with the owner of such host plants to remove and replace them with suitable nursery stock in lieu of treatment.

#### ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

This regulation will benefit the apple, peach, pear, tomato and citrus industries (nursery, fruit for domestic use and exports, packing facilities) and the environment (urban landscapes) by expanding the geographic scope of an eradication program to prevent the artificial spread of the PFF over short and long distances.

This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

There is no existing, comparable federal regulations or statute regulating the intrastate movement of PFF.

There are no known specific benefits to worker safety or the health of California residents.

#### EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Department considered any other possible regulations addressing PFF, and it found that these are the proposed amendments are the only regulations dealing with this subject, and the Department is the only State agency which can designate these eradication areas for plant pests. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of Section 3591.12 and has determined that it is not inconsistent or incompatible with existing state regulations.

#### CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Prior to conducting any action authorized by this regulation, the Department shall comply with the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et seq. as amended) and the State CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et seq.).

#### DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: Compliance activities are currently being performed by existing state staff throughout quarantine areas within the State. The Department is currently monitoring for fruit flies, and thus there is no change to the cost due to these regulations. The Department has determined that no savings or increased costs to any state agency and no costs or savings in federal funding to the State will result from the amendment of Section 3591.12. The amendment of this regulation would have no fiscal impact on the Department.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

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

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

Cost impacts on a representative private person or business: The amendment of Section 3591.12 will provide authority for the Department to conduct eradication activities against PFF in Sacramento County and there are no known private sector cost impacts. The agency is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The cost impacts are expected to be none and minimal/non-consequential. The Department makes the initial determination that the proposed action will not have a significant, statewide adverse economic impact.

Significant effect on housing costs: None.

Small business determination: The proposed action will not affect small business because compliance activities are currently being performed by existing state staff throughout quarantine areas within the State without any impact on small business.

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

The Department has concluded that the Section 3591.12 amendment (1) will have no significant impact on the creation or elimination of jobs in the State of California, (2) will have no impact on the creation or elimination of businesses within the State of California, (3) will have no impact on the expansion of businesses within the State of California, (4) is expected to benefit the health and welfare of California residents, (5) is expected to benefit the state's environment, and (6) is not expected to benefit workers' safety.

The health and welfare of California residents: The proposed action will benefit the health and welfare of California residents by preventing increased costs to the consumers of host materials and increased pesticide usage.

The state's environment: The amendment of this regulation benefits the environment (urban landscapes) by providing the Department an eradication program to prevent the artificial spread of the PFF over short and long distances.

#### CONSIDERATION OF ALTERNATIVES

The Department 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 pri-



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

The Department invites interested persons to present alternatives during the written comment period.

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

The Department has prepared an initial statement of reasons for the proposed action, and has made available all the information upon which its proposal is based and the express terms of the proposed action. The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/plant/Regulations.html](http://www.cdfa.ca.gov/plant/Regulations.html)). A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the comment period and 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. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the agency officer named herein.

TITLE 11. DEPARTMENT OF JUSTICE

CONFIRMATION OF INDIVIDUALS DESIGNATED BY A PUBLIC OR PRIVATE AGENCY AS A CUSTODIAN OF RECORDS

The Department of Justice (Department) proposes to adopt sections 999.600 through 999.607 of title 11, division 1, chapter 23 of the California Code of Regulations concerning the Confirmation of Individuals Designated by a Public or Private Agency as a Custodian of Records.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on October 24, 2023. Only written comments received by that time will be considered. Please submit written comments to:

Department of Justice  
 Authorization and Certification Program  
 Attention: Nancy Munoz  
 P.O. Box 160608  
 Sacramento, CA 95816-0608  
 (916) 210-3434  
[nancy.munoz@doj.ca.gov](mailto:nancy.munoz@doj.ca.gov)

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

AUTHORITY AND REFERENCE

Authority: Section 11102.2, Penal Code.  
 Reference: Section 11102.2, Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

**Summary of Existing Laws and Regulations:**

Various California laws authorize public and private agencies access to criminal history information for adoption, certification, employment, licensing, and permitting purposes.

Pursuant to Penal Code section 11102.2, every public and private agency that receives criminal history information from the Department is required to designate at least one Custodian of Records to assume responsibility for the security, storage, dissemination, and destruction of criminal history information that is furnished to the agency by the Department.

As mandated, the Department maintains a confirmation program to process fingerprint-based background clearances and applications for individuals designated by agencies as Custodian of Records. Prior to confirming a designated individual, the Department is required to determine whether the designated individual possesses the required honesty, credibility, truthfulness, and integrity to fulfil the responsibilities of the position in accordance with subdivisions (f) and (g) of Penal Code section 11102.2.

**Effect of the Proposed Rulemaking:**

The proposed regulations specify the application process for the Department’s Custodian of Records confirmation program, including appeal procedures related to denied or revoked confirmations.

**Anticipated Benefits of the Proposed Regulations:**

This rulemaking action will benefit individuals designated as Custodian of Records by satisfying due process and public policy requirements in a manner that is impartial and transparent.

**Comparable Federal Regulations:**

There are no existing federal regulations or statutes comparable to these proposed regulations.

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

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing State 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 confirmation of individuals designated by a public or private agency as a Custodian of Records.

**Forms Incorporated by Reference:**

1. Custodian of Records Application for Confirmation, BCIA 8374, orig. 05/2023 (see subdivision (a) of section 999.601)
2. Request for Live Scan Service, BCIA 8016CUS, orig. 05/2023 (see subdivision (b) of section 999.601)
3. Applicant Fingerprint Form, FD-258 (Rev. 11-1-20) 1110-0046 (see subdivision (b) of section 999.601)

**Other Statutory Requirements:**

None.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

**The Department’s Initial Determinations:**

*Mandate on local agencies or school districts:* None. The mandate on local agencies or school districts to designate a Custodian of Records is set by statute (Penal Code section 11102.2). These regulations only specify the application process for the Department’s Custodian of Records confirmation program, including appeal procedures related to denied or revoked confirmations.

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

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

*Cost impacts on representative 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. However, Penal Code section 11102.2 does set a fee of thirty dollars (\$30) to cover the costs of the Department’s confirmation program.

*Significant effect on housing costs:* None.

*Significant, statewide adverse economic impact directly affecting businesses, including ability to compete:* The Department has made an initial determination that that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**Results of the Economic Impact Assessment (EIA):**

The Department concludes that the proposal will not (1) create or eliminate jobs within the state, (2) create new businesses or eliminate existing businesses within the state, (3) result in the expansion of businesses currently doing business within the state.

The Department also concludes that:

- (1) The proposal will not have a discernable impact on the health and welfare of California residents.
- (2) The proposal will not have a discernable impact on worker safety.
- (3) The proposal will not have a discernable impact on the state’s environment.

*Benefits of the proposed action:* This rulemaking action will benefit individuals designated as Custodian of Records by satisfying due process and public policy requirements in a manner that is impartial and transparent.

*Business report requirement:* None.

*Small business determination:* The Department has determined that this proposed action does not af-

fect small businesses because the mandate on small businesses to designate a Custodian of Records is set by statute (Penal Code section 11102.2). These regulations only specify the application process for the Department’s Custodian of Records confirmation program, including appeal procedures related to denied or revoked confirmations.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), 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 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 has determined that the proposed regulations are the most effective way to specify the application process for the Department’s Custodian of Records confirmation program, including appeal procedures related to denied or revoked confirmations.

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Justice  
 Authorization and Certification Program  
 Attention: Nancy Munoz  
 P.O. Box 160608  
 Sacramento, CA 95816-0608  
 (916) 210-3434  
[nancy.munoz@doj.ca.gov](mailto:nancy.munoz@doj.ca.gov)

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

Department of Justice  
 Authorization and Certification Program  
 Attention: Douglas Wormald  
 P.O. Box 160608  
 Sacramento, CA 95816-0608  
 (916) 210-4070  
[douglas.wormald@doj.ca.gov](mailto:douglas.wormald@doj.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 and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of Proposed Regulations (the “express terms” of the regulations), the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department’s website at <https://oag.ca.gov/bcia/regulations>. Please refer to the contact information listed above to obtain copies of these documents.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt these regulations substantially as described in this notice or make modifications based on the comments. 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 any modified regulations to the attention of the name and address indicated above. 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, a copy of the Final Statement of Reasons will be available on the Department’s website at <https://oag.ca.gov/bcia/regulations>. Please refer to the contact information included above to obtain a written copy of the Final Statement of Reasons.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department’s website at <https://oag.ca.gov/bcia/regulations>.

## TITLE 12. DEPARTMENT OF VETERANS AFFAIRS

### CALIFORNIA STATE APPROVING AGENCY FOR VETERANS EDUCATION (CSAAVE) SECTIONS 443, 444, 445, 446, 447

NOTICE IS HEREBY GIVEN that the California Department of Veterans Affairs (“CalVet”) is proposing to take the action described in the Informative Digest after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

CalVet has not scheduled a public hearing. However, CalVet will hold a hearing if it receives a written request for one 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 CalVet. Comments may also be submitted by facsimile (FAX) at (916) 653-2456 or by email to [phil.mcallister@calvet.ca.gov](mailto:phil.mcallister@calvet.ca.gov). The written comment period closes **at Noon on October 24, 2023**. CalVet will consider only comments received at CalVet offices by that day, as well as comments received at the public hearing. Submit comments to:

Phil McAllister, Regulatory Actions Coordinator  
California Department of Veterans Affairs  
1227 O Street, Suite 300  
Sacramento, CA 95814

#### AUTHORITY AND REFERENCE

Authority: Education Code Sections 67100, 67101, and 67102. Reference: 38 C.F.R. 21.4253 and 3671.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### A. Policy Statement Overview

The California Department of Veterans Affairs (CalVet), California State Approving Agency for Veterans Education (CSAAVE), operates under contract with the U.S. Department of Veterans Affairs (USDVA). Under the authority of federal law, Title 38 United States Code, the CSAAVE approves or disapproves veterans’ education and training programs, prevents

abuses, and promotes quality in veterans’ education by evaluating and monitoring education and training programs.

CalVet proposes to adopt California Code of Regulations, title 12, sections 443, 444, 445, 446, and 447 concerning additional requirements on postsecondary educational institutions seeking to enroll veterans or persons eligible for Title 38 funds.

Education Code Sections 67100, 67101, and 67102 grants CSAAVE administrative control over the Title 38 Funding Program. Postsecondary educational institutions and programs seeking to enroll veterans or persons eligible for Title 38 awards must receive CSAAVE approval for these courses. To that end, CSAAVE may require the postsecondary institution or program to comply with all federal and state laws and regulations as well as additional reasonable criteria established by CSAAVE. Beginning in the 2016–2017 award year, the postsecondary institution or program must also have its approval to operate from the Bureau for Private Postsecondary Education (BPPE) certified by CSAAVE or be a California public college or university.

Currently, CSAAVE has not adopted comprehensive criteria for Title 38 funding. Without regulations, postsecondary educational institutions and programs will continue to spend public funds to target Title 38 beneficiaries without improving either the quality of education or graduation outcomes for those recipients.

Regrettably, there is a history of abuse by some Title 38 school and program recipients, including the documented waste of large amounts of public monies, and more importantly, the taking of monies and years from the intended beneficiaries — without adequate benefit. These disappointing outcomes have been documented in audits, Congressional reports and numerous other sources. More specifically, the rationale for rules to prevent historical and predicted abuse is driven by numerous factors, including the following:

1. The higher maximums for tuition assistance and for living expenses for veterans under Title 38 *vis-à-vis* public assistance to other populations; a justifiable disparity, but one that creates an incentive for marketing abuse;
2. The irreparable harm that can flow from years of education without beneficial outcome, including the common private borrowing by students, which can create hardship where expected employment does not occur, including credit ruination and other consequences;
3. Limitations on effective court redress or other state protections to address abuses of veterans in their use of Title 38 benefits.

4. Congressional intent that veterans receive reliable assistance to achieve self-sufficiency and success.

These and other factors commend a preventive strategy that is based on bright-line criteria that closely correlate with abuse prevention or education success — including the empirical record of graduation, job qualification, subsequent employment, debt management, and other measurable performance factors. The rules also ensure that student veterans have an effective legal remedy against a postsecondary institution or program’s fraudulent or predatory practices to provide redress where prevention fails. A set of these rules apply only to institutions with a predominant share of revenue from Title 38 public sources — with the concomitant expectation of statutory and rule compliance. As a part of the privileged receipt of those funds and that trust, the institutions may not categorically forbid effective judicial redress by the student veterans involved.

**The specific problem being addressed in this regulatory action is to, without being unduly burdensome, build upon the recent performance standards for the broader state higher education Cal Grant subsidy, and establish baseline accreditation, graduation, and academic spending requirements appropriate for this distinct population.**

B. Informative Digest

*The specific purpose for each proposed amendment or adoption of 12 CCR 443–447 would provide as follows:*

**Section 443:** defines terms used in the regulations. This is necessary for the reader to be able to easily understand the meaning of the defined term or phrase as used in the regulations.

**Section 444(a):** This section demonstrates that institutions are accredited in accordance with California Ed. Code 67102 or issued a waiver by the USDVA under 38 USC 3676 section(f)(1). State and federal law requires educational institutions wishing to offer Title 38 programs to provide evidence of accreditation of the institution and of all degree programs to CSAAVE. The accrediting agency must be recognized by the United States Department of Education.

This is necessary to ensure the California institutions comply with all federal and state laws and regulations regarding accreditation and the authority to operate as a California Private Postsecondary Institution offering Title 38 programs.

**Section 444(b)(1):** This section requires CSAAVE to acquire information from educational institution on their graduates’ license examination passage rates, graduation completion rates, and the cohort default rate current or most recent year preceding the application to CSAAVE. This is necessary to substantiate

student outcomes following graduation and demonstrate that the institution or program is responding to job market conditions.

**Section 444(b)(2):** 38 USC 3676(c)(9) requires that organizations demonstrate financial stability as part of their approval for Title 38 eligibility. Public institutions are exempt by state law and other accredited institutions have already met this standard through their accrediting agency. All other institutions must demonstrate financial stability and comply with the requirements to qualify for GI Bill funds. Several institutions offering Title 38 funded programs have failed due to financial instability, leaving veterans out time, money, and Title 38 eligibility, so this requirement is designed to ensure are not harmed by attending an institution that cannot demonstrate its financial stability.

**Section 444(b)(3):** Ed. Code 67102.5(e) authorizes CSAAVE to acquire this information. This includes documentation required for all institutions operating under the authority of the Bureau for Private Postsecondary Education (BPPE). The institution must provide the current approval status including the current BPPE Approved Program list. If expired, the institution must provide documentation demonstrating the school’s current status. This is necessary to ensure that CSAAVE does not grant approval for non-compliant institutions and programs.

**Section 444(b)(4):** Ed. Code 67102.5(d) Requires CSAAVE to acquire this information to determine if an educational institution is operating ethically and in the best interests of veteran students.

**Section 444(b)(5)A:** Ed. Code 67102.5 and Sections 21.4256 and 21.4254 of Title 38 of the Code of Federal Regulations require CSAAVE to acquire this information from educational programs seeking approval to participate in Title 38. This requirement protects veteran students from educational institutions that fail to meet the basic standards.

**Section 444(b)(5)B:** Title 38 USC sections 3675(b)(3) and 3676(c)(14) and (15) require CSAAVE to acquire this information from educational institutions as part of the approval process for Title 38 programs. CSAAVE has found that some educational institutions’ programs of education did not meet the standards required for licensure, certification, State board approval, or employment. This requirement protects veteran students from educational institutions that fail to meet the basic standards.

**Section 444(b)(5)C:** Title 38 USC sections 3675(b)(3) and 3676(c)(14) and (15) to acquire this information from educational institutions as part of the approval process for Title 38 programs. CSAAVE has found that some educational institutions’ programs of education did not meet the standards required for licensure, certification, State board approval, or employment. This

requirement protects veteran students from educational institutions that fail to meet the basic standards.

**Section 444(b)(6):** Ed. Code 67102.5(f) requires that CSAAVE accept an educational institution's School Performance Fact Sheet rather than reporting the information required in Section 67102.5. This allows educational institutions a more efficient and more cost-effective way of reporting required information.

**Section 444(c):** 38 USC 3676 section(f)(1) allows educational institutions to receive a waiver if they are not recognized by an eligible certifying or accrediting organization, and CSAAVE has an obligation to recognize those educational institutions that have received a USDVA waiver. California institutions that have received a USDVA waiver are deemed to have met all of the requirements to be treated as an accredited educational institution for the purposes of the Title 38 programs.

**Section 444(d):** 38 USC 3676 provides authorization of the disapproval of educational institutions that do not meet the requirements for the Title 38 program. This section will help prospective veteran students to make informed decisions about their academic future and to inform students of the approval status of the institution and its program(s).

**Section 445(a)(1):** 38 CFR Sections 21.4253 and 21.4254 authorize CSAAVE to approve the application of the accredited and nonaccredited institutions when the school and its accredited and nonaccredited courses satisfy the criteria provided in those sections. This is necessary to ensure that institutions and programs comply with all requirements and standards applying to Title 38 programs.

**Section 445(a)(2):** This section requires CSAAVE to ascertain that educational institutions comply with Title 38 CFR parts 21.4253 and 21.4254 as well as Ed. Code 67100 in order to gain approval to offer Title 38 eligible programs. This is necessary to ensure that educational institutions have proper accreditation to operate.

**Section 445(a)(3):** requires CSAAVE to ensure that educational institutions to comply with 38 USC §3696. This section is necessary to ensure these institutions' advertising and representations are honest with students and must refrain from engaging in certain prohibited and misleading recruiting practices.

**Section 445(a)(4):** 38 USC §3696(f)(2) Requires CSAAVE to ensure that educational institutions do not violate the marketing standards. This is necessary to ensure all institutions and programs comply with federal marketing requirements for Title 38 eligibility.

**Section 445(a)(5):** This section requires CSAAVE to ensure educational institutions do not violate Title 38 CFR part 21.4252, California Business and Professions Code sections 17200 et seq. or 17500 et seq., or Civil Code section 1750 et seq. This is necessary to

ensure that CSAAVE does not grant approval for non-compliant institutions and programs and prospective students can make informed decisions about the educational institution they choose.

**Section 445(b)(1):** This section requires CSAAVE to ensure educational institutions comply with Ed. Code 67100. Sections 21.4253 and 21.4254 of Title 38 of the Code of Federal Regulations require a postsecondary educational institution headquartered or operating in California desiring to enroll veterans to apply for approval of these courses to CSAAVE, as the state approving agency. Sections 21.4253 and 21.4254 authorize CSAAVE to approve the application of the accredited and nonaccredited institutions when the school and its accredited and nonaccredited courses satisfy the requirements. This is necessary to ensure that institutions and programs comply with state and federal requirements and standards applying to Title 38.

**Section 445(b)(2):** This section requires CSAAVE to ensure institutions satisfy requirements necessary to allow a student who completes the educational program to qualify to take any required licensing or certification exam. If a course is designed to prepare an individual for employment pursuant to standards developed by a board or agency of a State in an occupation that requires approval, licensure, or certification, the course must meet such standards. Pursuant to 21.4259(e), institutions must publicly disclose the conditions or requirements for obtaining the license, certification, or approval or face disapproval. This is necessary to ensure veterans are confident that the coursework will provide the skills they need for licensure or certification.

**Section 445(c):** 38 USC 21.4259(e) requires CSAAVE to determine if an educational institution satisfies the requirements necessary to allow a student who completes the educational program to qualify to take any required licensing or certification exam. This is necessary since CSAAVE found veterans were unable to secure employment following graduation because their program of education did not meet the standards required for licensure, certification, State board approval, or employment.

**Section 445(d):** 38 USC 21.4259(e) requires CSAAVE to disapprove educational institutions that do not meet federal requirement for Title 38 eligible programs operating in California. Ed. Code 67100 charges CSAAVE with complying with both the federal regulatory standards found in 38 CFR parts 21.4253 and 21.4254, and to establish reasonable criteria for program viability. This is necessary since CSAAVE found veterans were unable to secure employment following graduation because their program of education did not meet the standards required for licensure, certification, State board approval, or employment.

**Section 446:** This section requires institutions to provide CSAAVE copies of all documents and other materials concerning the institution and its programs for which approval is sought, including all documents maintained by governmental, accrediting, or licensing agencies or entities, in order to demonstrate that the educational institution meets all federal and state requirements to offer Title 38 eligible courses during the approval process. This is necessary to ensure CSAAVE has knowledge of the licensing and/or approval status of an institution or its approved programs offered in California during the approval process and to ensure timely completion of the approval process to protect veteran students benefits.

**Section 447(a):** This section requires educational institutions to notify CSAAVE within 30 days of an institutional or programmatic accreditation, licensing, or approval status change which is required by 38 CFR 21.4253(a)(1). This is necessary because many veterans have lost entitlement due to changes in an institution's approval status, of which they were unaware. Loss of accreditation often leads to a closure of the institution, with a loss of time, money and Title 38 entitlement for veteran students. Timely notification, and potential correction, of accreditation issues are important to allowing veterans to make informed choices regarding their education.

**Section 447(b):** 38 CFR Section 21.4259(a)(1) and 38 USC section 3679 of the Code of Federal Regulations, provides the authority to suspend a course, licensing or certification test if any of the requirements are not being met for a period of 60 days. This is necessary to assure student success and protect veteran students and their Title 38 education benefits.

**Section 447(c):** 38 CFR Section 21.4259(a)(2) authorizes CSAAVE to disapprove a course or licensing or certification test, if deficiency cannot be corrected within 60 days. This is necessary to assure student success and protect veteran students and their Title 38 education benefits.

**Section 447(d):** Federal Statute, 38 USC 3679(a), requires CSAAVE to notify an institution by certified or registered letter of a suspension or disapproval with a return receipt secured. The requirement that the institution be notified within 30 days is to ensure timely notification so that veterans can make informed decisions on course attendance, and is consistent with other notification requirements. This is necessary to ensure that any veteran enrolled in such a course of education understands the status of the course in order to protect their USDVA benefits.

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

After conducting an evaluation for any regulations related to this area, CalVet has found that there are no inconsistent or incompatible existing state regula-

tions. CalVet (through the CSAAVE administrator) is the only state agency that regulates the awarding of Title 38 funds to postsecondary educational institutions and programs seeking to enroll veterans or eligible persons for such awards.

*Benefits of the Proposed Action:*

The proposed regulations will add protections for California veterans not currently in place. Aligning the CSAAVE program with the Cal Grant standards, as closely as possible using the federal requirements, will ensure a consistent application of state requirements for higher education institutions, while protecting veterans and ensuring they will receive the educational benefits they expect and should acquire when enrolled in a state-approved Title 38 program. The proposed regulations are not expected to affect worker safety or the state's environment.

DISCLOSURES REGARDING THE PROPOSED ACTION

*CalVet has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: Minimal.

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

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

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

Cost impacts on a representative private person or businesses: CalVet 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 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.

Significant effect on housing costs: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

In accordance with Government Code section 11346.5(a)(10), the results of the EIA (full EIA found in the Initial Statement of Reasons) are as follows:

- The proposed regulations will not create or eliminate jobs in California.
- The proposed regulations will not create or eliminate businesses in California.

- The proposed regulations will not affect the expansion of existing businesses in California.

#### BENEFITS OF THE PROPOSED ACTION

The proposed regulations will add protections for California veterans not currently in place. Applying the standards currently in place for educational institutions operating in California ensures a consistent application of state requirements for higher education institutions, while protecting veterans and ensuring they will receive the educational benefits they expect and should acquire when enrolled in a state-approved Title 38 program.

#### SMALL BUSINESS DETERMINATION

The proposed regulations will not affect small business because this proposed regulation only impacts educational institutions who seek Title 38 funding.

#### BUSINESS REPORT

The proposed regulation does not require a business report.

#### CONSIDERATION OF ALTERNATIVES

CalVet 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.

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Phil McAllister, Regulatory Actions Coordinator  
California Department of Veterans Affairs  
1227 O Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 653-1961  
Fax: (916) 653-2456  
Email: [phil.mcallister@calvet.ca.gov](mailto:phil.mcallister@calvet.ca.gov)

The backup contact person for these inquiries is:

Cheryl Iannello  
Assistant Deputy Secretary, Chief of  
Postsecondary Institutions  
California State Approving Agency for Veterans  
Education  
1227 O Street  
Sacramento, CA 95814  
Telephone: (916) 503-8317  
Email: [cheryl.iannello@calvet.ca.gov](mailto:cheryl.iannello@calvet.ca.gov)

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Phil McAllister at the above address.

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

CalVet will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons. Copies may be obtained by contacting Phil McAllister at the address or phone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, CalVet may adopt the proposed regulations substantially as described in this notice. If CalVet 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 CalVet adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Phil McAllister at the address indicated above. CalVet 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 Phil McAllister at the above address.



AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the 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.calvet.ca.gov/about-us/laws-regulations>.

**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 Sections 3000 and 3312 in Title 15, Division 3, Chapter 1, regarding the stacking of Rules Violation Reports (RVRs).

PUBLIC COMMENT PERIOD

The public comment period begins **September 8, 2023**, and closes on **October 26, 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. Orr  
Telephone: (916) 445-2229  
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 23, 2023 — 10:00 a.m. to 11:00 a.m.**

Place:

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

AUTHORITY AND REFERENCE

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

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

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

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

The department provides a graduated system of inmate discipline that is designed to be administered commensurate with the seriousness of the offense. Discipline shall be administered to maintain control, conserve human values and individual dignity, and promote desirable changes in attitude and behavior.

The inmate disciplinary system incorporates statutory and constitutional mandates and provides essential due process guarantees to ensure fairness and equal application.

“Stacking” refers to the practice of breaking a single event of misconduct into several offenses where there is a nexus between the offenses and assessing separate penalties for each of the offenses. Due process requires that everyone be judged and penalized by the same standard; stacking violates due process because it penalizes some inmates more than others, and therefore a regulatory change must be made to explicitly disallow stacking and provide alternate directives to ensure that stacking is not practiced.

**This action will:**

- Define “stacking.”
- Prohibit the stacking of RVRs and establish alternate directives.

**DOCUMENTS INCORPORATED  
BY REFERENCE**

None.

**SPECIFIC BENEFITS ANTICIPATED BY  
THE PROPOSED REGULATIONS**

The proposed regulations will serve to protect the due process rights of inmates, preventing them from being unduly issued multiple RVRs when a single RVR is warranted. The department anticipates that the proposed regulations will protect the department and result in fewer lawsuits pertaining to due process violations.

**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 stacking of RVRs.

**LOCAL MANDATES**

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

**FISCAL IMPACT STATEMENT**

- Cost or savings to any state agency: *None*
- Cost to any local agency or school district that is required to be reimbursed: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

**EFFECT ON HOUSING COSTS**

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

**COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSONS OR BUSINESSES**

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

**SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESS**

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

**EFFECT ON SMALL BUSINESSES**

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

**RESULTS OF THE ECONOMIC  
IMPACT ASSESSMENT**

The department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on worker safety or the state’s environment. These regulations may benefit the welfare of California residents by helping to make CDCR institutions safer for inmates, staff, and visitors. Additionally, saf-

er institutions may provide an environment more conducive to rehabilitation, thereby reducing recidivism.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

least 15 days after the date on which they are made available.

TITLE 16. ACUPUNCTURE BOARD

APPLICATION PROCESS FOR LICENSING EXAMINATION AND RE-EXAMINATION, AND CRITERIA, AND PROCEDURES FOR APPROVAL OF A CREDENTIAL EVALUATION SERVICE

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

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or email to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than by 5:00 p.m., Tuesday, October 24, 2023**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section(s), 4928, and 4933 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section(s) 4925, 4938, 4939, 4940, 4941, and 4944 the Board is considering amending section(s) 1399.411, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419, and adopting sections 1399.409, 1399.416.2, 1399.416.3, and 1399.416.4 of Title 16, Division 13.7, Article 2 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

BPC section 4933 authorizes the Board to adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations as may be necessary to enable it to carry into effect the provisions of law relating to the practice of acupuncture. BPC section 4928.1 requires that protection of the public is the highest priority for the Board in exercising its licensing, regulatory and disciplinary functions.

This regulatory proposal creates minimum requirements for Board approval of credential evaluation services, setting forth Board requirements, criteria, an application process, and an approval/revocation process for credential evaluation service applicants. The proposal also provides a section of definitions for terms used throughout the article.

Additionally, the proposal sets requirements for applicants applying and re-applying for the California Acupuncture Licensing Examination. The requirements will differ based upon the education and training track the applicant completed (approved educational and training program, foreign-trained, or tutorial program). The proposal removes outdated deadlines and policy which related to the exam being administered twice a year versus the current process of being accessible by computer all year long. The proposal also improves and updates the documentation and submission requirements accepted by the Board.

**Anticipated Benefits of Proposal**

This proposal would strengthen oversight and provide greater assurances of the accuracy, completeness, and timeliness of foreign-trained applicant submissions by creating minimum requirements for Board approval of credential evaluation services, incorporating an application form, specifying definitions, and requiring credential evaluation services to attest to facts and representations made to the Board.

Additionally, the regulations will provide clear and consistent requirements for applicants applying for the California Acupuncture Licensing Examination based upon the education and training track they completed. Old and nonapplicable deadlines and policy related to the prior method of administering the exam are removed to establish relevant and clear guidelines for the exam application process. The proposal also amends the documentation and submission standards for the Board. Overall, this proposal creates a transparent process and allows applicants to demonstrate eligibility for an acupuncture license with more ease.

This regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state's environment.

**Consistency and Compatibility with Existing State Regulations**

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

DISCLOSURES REGARDING THIS  
PROPOSED ACTION

The Board has made the following initial determinations:

FISCAL IMPACT ESTIMATES

The regulations do not have a fiscal impact to the state.

**Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:** None. The regulations do not have a fiscal impact to the state.

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

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

**Local Mandate:** None.

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

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS

BUSINESS IMPACT ESTIMATES

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Board presently works with approximately six NACES recognized credential evaluation services who would be directly affected by this proposal. However, there are potentially 19 NACES recognized credential evaluation services open to apply for Board approval. On average the Board estimates that it will receive one new Credential Evaluation Service applicant in any given year. It is anticipated the approved services will remain static year to year. Organizations that provide credential evaluation services would not experience a significant financial burden in completing the application and complying with the proposed amendments to Title 16, California Code of Regulations sections 1399.411, 1399.416.3 and 1399.416 since they currently

meet the requirements of the proposed application and regulations.

There is no cost associated with the application process. Additionally, costs associated with changes to the evaluation reports, including a single disclaimer, provided to acupuncture candidates and statistical reporting should not increase costs for the organizations.

The fees associated with the applications for examination and re-examination are not being altered by the amendments to Title 16 CCR sections 1399.409, 1399.413, 1399.414, 1399.416, 1399.417, and 1399.419. The amendments to these sections are achieving clarity and an update to the processes and requirements. Therefore, no additional costs are expected with these changes.

Title 16, CCR section 1399.411 affects approved educational and training programs. However, it is estimated that it will not affect costs for these programs as the regulation is simply providing clarity on the documentation process and requirements when submitting proof of education and training to the Board. The requirements are already being met by approved educational and training programs.

**Impact on Jobs/Businesses**

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

**Business Reporting Requirements**

The regulatory action requires Board approved credential evaluation service businesses to file a report with the Board regarding any changes to information previously provided to the Board. As these businesses are providing information on which the Board will rely in determining the fitness for licensure of applicants seeking to practice a healing art on the people of the State of California, it is necessary that the Board be informed of changes which might affect the veracity or reliability of the credential evaluation service. Therefore, this report is necessary for the health, safety, and welfare of the people of the State of California.

By setting standards and requirements for credential evaluation services, the Board has more control over the accuracy and integrity of the evaluation of foreign-trained applicants. Thereby, fraudulent activity is mitigated so only applicants who are legitimately eligible for licensure become licensed.

This regulatory action provides public protection. Additionally, the regulations will provide clear and consistent requirements for applicants applying for the exam based upon the education and training pathway they completed. Updating and clarifying the application process improves the Board’s review achieving public protection so only those who meet education

and training qualifications are admitted to the exam and, in turn, licensed.

**Effect on Small Business**

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

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

The Board is not aware of any additional 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.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1625 North Market Boulevard, Suite N-219, Sacramento, CA 95834.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at [https://www.acupuncture.ca.gov/about\\_us/relevant.shtml](https://www.acupuncture.ca.gov/about_us/relevant.shtml) or upon request from the Board at:

1625 North Market Boulevard  
Suite N-219  
Sacramento, CA 95834

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

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

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

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

Name: Kristine Brothers  
Policy Coordinator  
Address: Acupuncture Board  
1625 North Market Boulevard, Suite N-219  
Sacramento, CA 95834  
Telephone Number: 916-515-5200  
Fax Number: 916-928-2204  
Email Address: [AcuPolicy@dca.ca.gov](mailto:AcuPolicy@dca.ca.gov)

The backup contact person is:

Name: Marisa Ochoa  
Central Services Manager  
Address: Acupuncture Board  
1625 North Market Boulevard, Suite N-219  
Sacramento, CA 95834  
Telephone Number: 916-515-5200  
Fax Number: 916-928-2204  
Email Address: [AcuPolicy@dca.ca.gov](mailto:AcuPolicy@dca.ca.gov)

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the Notice of Proposed Actions the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board's website at [https://www.acupuncture.ca.gov/about\\_us/relevant.shtml](https://www.acupuncture.ca.gov/about_us/relevant.shtml).

TITLE 16. COURT REPORTERS  
BOARD

VOICE WRITING

**NOTICE IS HEREBY GIVEN** that the Court Reporters Board of California (CRB or Board) proposes to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this Notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or email to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than 5:00 p.m. on Tuesday, October 24, 2023**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 8007 and 8017 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 8007, 8017, 8017.5, 8020, and 8027; Code of Civil Procedure (CCP) sections 269, 271, 2025.330, 2025.510, 2025.520, 2025.540, 2025.550, and 2025.570; Corporations Code (CC) sections 13401 and 13410; and Government Code (GC) section 69955, the Board is considering amending sections 2403, 2411, and 2414 of Title 16, Division 24, of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

Existing regulations at CCR sections 2403, 2411, and 2414 set forth the Board’s requirements for shorthand reporting, which essentially entails using a system for rapid writing to make a verbatim record of a legal proceeding. Previous law at BPC section 8016.5 prohibited the Board from issuing certificates to voice writers, or shorthand reporters who use a closed microphone voice dictation silencer, steno mask, or similar device using oral shorthand and voice notes to make a verbatim record of a proceeding. In 2022, the Legislature passed Assembly Bill (AB) 156 (Committee on Budget, Stats 2022, Chapter 569), repealing BPC section 8016.5 and requiring the Board to allow for the licensure of voice writers as certified court reporters in California.

This regulatory proposal will amend CCR sections 2403, 2411, and 2414 to recognize voice writing as an acceptable and equal means of practicing shorthand reporting and as a method of qualifying for the certified shorthand reporter (CSR) examination. The proposal will also provide a clear set of minimum prescribed course of study requirements that court reporting schools recognized by CRB shall follow to adequately train their voice writing students for licensure if they choose to include a voice writing component in their program. Furthermore, the proposal will update relevant definitions, and also make other minor, technical non–substantive changes to address capitalization and grammar. This proposal aligns with the Board’s mission to protect and serve the public by hiring voice writing shorthand reporters who are certified and under CRB’s direct jurisdiction.

The Board proposes the following changes:

**Amend Section 2403, Scope of Practice.**

Existing law defines the practice of shorthand reporting and outlines the scope of practice for an accurate transcription in superior court and for a deposition. This regulatory proposal will

- Amend the introductory paragraph by adding “or by voice writing,” after “machine shorthand writing.”
- Amend subsection (a)(1) by adding “or by voice” after “shorthand.”
- Amend subsection (a)(8) by adding “or voice” after “stenographic.”
- Amend subsection (b)(4) by adding “or voice” after “stenographic” in two locations.
- Amend subsection (b)(9) by changing the comma after “deponent” to a closing parenthesis.
- Amend Reference Note by adding a comma and deleting “and” after “8007” and adding “and

8017.5,” after “8017” in the BPC portion of the Reference Note.

**Amend Section 2411, Criteria for Recognition of Court Reporting Schools; Continued Validity; Reports.**

Existing law establishes the minimum course of study for CRB–recognized court reporting schools.

This regulatory proposal will

- Amend subsection (a) by adding “or Voice Writing” after “Machine Shorthand” and adding “hours” after “2300.”
- Amend subsection (a)(1) by adding “or voice writing” after “machine shorthand writing.”
- Amend subsection (a)(3) by adding “machine shorthand” before “student,” adding clarification for “varying difficulty” in the existing sentence, and adding a second sentence, comparable to the existing first sentence, relating to dictation transcription requirements for voice writing students.
- Amend subsection (a)(4) by adding “reporting” after “tested” and deleting “writing” before “speeds.”
- Amend subsection (a)(5) by adding “or voice” after “stenographic.”
- Add subsection (a)(8) to establish the need for schools to test voice writing students who have reached a specified level of proficiency on their ability to not be heard from two feet away while reporting.
- Amend subsection (b) by adding “hours” after “240.”
- Amend subsection (c) by adding “hours” after “120.”
- Amend subsection (d) by adding “hours” after “150,” deleting “the” before “classroom,” and adding a comma after “but not limited to.”
- Amend subsection (d)(2)(C) by adding “or voice” after “stenographic.”
- Amend subsection (f) by adding “hours” after “25.”
- Amend subsection (g) by adding “hours” after “5.”
- Amend subsection (h) by adding “hours” after “60.”
- Amend subsection (h)(3) by adding “or voice” after “stenographic” in two locations.
- Amend subsection (h)(4) by deleting the periods after and adding parentheses around the subsection indicators (A) through (D) that identify the four listed additional instruction categories.
- Amend subsection (i) by adding “hours” after “60.”

- Amend subsection (i)(3) by adding “or voice” after “stenographic.”
- Amend subsection (i)(5) by adding “or voice” after “stenographic” and adding “hours” after “660.”
- Amend subsection (k)(1) by changing “8047” to “8051” in relation to the range of BPC sections that relate to CRB.
- Amend subsection (m) by changing “(k)” to “(I)” after “Section 8027.”
- Add subsection (o) relating to the definition of “voice writing.”
- Amend Reference Note by adding “8017.5,” after “8007,” and adding a comma after “8020” in the Reference Note.

**Amend Section 2414, Definitions.**

Existing law establishes definitions relating to court reporting schools.

This regulatory proposal will

- Amend subsection (a) by deleting “that is a course” and adding “, voice writing,” after “machine shorthand.”
- Amend subsection (a)(3) by adding a comma after “shorthand reporter,” deleting “or” and the “n” of “an” before “RPR,” adding “current Registered Professional Reporter” before “RPR,” adding parentheses around “RPR,” and adding “, or a current Certified Verbatim Reporter (CVR) certificate from the National Verbatim Reporters Association” after “Association.”
- Amend subsection (b) by adding “or voice” after “machine” and deleting “that is a course” before “other than an academic course.”
- Amend subsection (b)(3) by adding, a comma after “shorthand reporter,” deleting “or” and the “n” of “an” before “RPR,” adding “current” before “RPR,” and adding “, or a current CVR certificate from the National Verbatim Reporters Association” after “Association.”
- Amend subsection (b)(4) by adding “or voice” after “machine.”
- Amend subsection (d) by adding “or voice” after “machine.”
- Amend subsection (i) by deleting the comma and adding “and” after “student,” adding “or voice” after “stenographic,” and deleting “, or other methods, as determined and reviewed and approved by the Board.”
- Amend Reference Note by adding “, 8017.5,” after “8007” in the Reference Note.

**ANTICIPATED BENEFITS OF THE PROPOSAL**

The Board has determined that this regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state’s environment.

The proposed amendments to CCR sections 2403, 2411, and 2414 will help facilitate the licensure of voice writers as certified shorthand reporters as required by BPC section 8017. Courts are struggling to find certified shorthand reporters as there is a small supply, and the certification of shorthand reporters by the voice writing method will help alleviate pressure on courts because demand for shorthand reporters continues to outgrow supply. Recently repealed BPC section 8016.5 prohibited CRB from issuing certificates to voice writers, but this regulation will ensure that CRB treats voice writers equally to other shorthand reporters, pursuant to BPC section 8024.8, by mandating that CRB issues certificates to voice writers in California. In addition, the proposal will provide a clear set of minimum curriculum requirements that include voice writing elements, which is critical for CRB-recognized court reporting schools to adequately train their students for licensure if they choose to include a voice writing component in their program. This proposal aligns with the Board’s mission to protect and serve the public by hiring voice writing shorthand reporters who are certified and under CRB’s direct jurisdiction.

***Evaluation of Consistency and Compatibility with Existing State Regulations***

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

**Incorporation by Reference**

No forms are incorporated by reference in the proposed regulations.

**DISCLOSURES REGARDING THIS PROPOSED ACTION**

**FISCAL IMPACT ESTIMATES**

- **Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:** The Board anticipates the regulations will result in a gradual increase in applicants for licensure as court reporting schools begin integrating voice writing coursework into their curriculum. The Board estimates 16 individuals will complete their voice writing education and apply to take the professional examination per year in the first



five years of implementation, of which 10 are projected to pass the examination and be issued an initial license. Beginning in year–six of implementation, up to 32 individuals are projected to complete their voice writing education and take the examination, of which 20 will be granted initial licensure.

**Examination and Licensing Workload:** The Board estimates current workload costs of \$173 per examination application, \$290 per initial license, and \$246 per renewal license (the first voice writer renewals will be processed in year–two of implementation). Total workload costs are estimated to range from approximately \$5,700 to \$42,900 and up to \$210,000 over a ten–year period.

**Note: Includes a 3 percent annual cost growth factor**

Any workload costs are anticipated to be absorbed within existing resources.

**Revenues:** The Board currently assesses a \$40 examination application fee and \$225 initial and renewal license fees, which would result in total annual revenues ranging from approximately \$2,900 to \$35,000 per year and up to \$167,000 over a ten–year period.

Additionally, each applicant will be required to complete a fingerprint background check with estimated costs of \$75, of which \$32 is passed on to the Department of Justice (DOJ). As a result, DOJ is projected to collect fingerprint revenues ranging from \$320 to \$640 per year and up to \$4,800 over a ten–year period.

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

- **Nondiscretionary Costs/Savings to Local Agencies:** None.
- **Cost to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 et seq.:** None.
- **Significant Effect on Housing Costs:** None.

#### BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts/evidence/documents or testimony:

This regulation will not have a significant adverse economic impact on businesses because CRB has been licensing certified shorthand reporters since 1951 and will continue to do so. The proposed regulations are

intended to expand the avenues toward licensure to include voice writing court reporters, in addition to the existing machine shorthand court reporters.

Once voice writing programs are established at recognized California schools, it will take time for students to enroll in and complete the program. Therefore, the increase in applications for licensure with CRB is expected to be gradual and not immediately significant.

In addition, court reporting schools that are recognized by CRB have the option of including a voice writing component in their training program, but it is not mandatory. Of the eight California schools currently recognized by CRB, only two currently have a voice writing program, but the Board anticipates additional voice writing programs being added in the future.

The Board does not have information or data for a school to start and provide voice writing educational programs. As a result, the Board does not have a cost estimate at this time.

The Board estimates 16 individuals will complete their voice writing education and apply to take the professional examination per year in the first five years of implementation, of which 10 will pass the examination and be issued an initial license. Beginning in year–six of implementation, up to 32 individuals are projected to complete their voice writing education and take the examination, of which 20 will be granted initial licensure.

The Board estimates annual tuition revenues of up to \$5,000 per voice writing student, which would result in total tuition revenues ranging from \$80,000 (16) to \$160,000 (32) per year and up to \$1.2 million over a ten–year period.

Individuals taking the professional examination will be required to pay \$75 for the three–part examination, which will result in revenues ranging from \$1,200 (16) to \$2,400 (32) per year and up to \$18,000 over a ten–year period. These fees are paid to CRB, which in turn pays the testing vendor.

Additionally, those individuals passing the examination and applying for licensure will need to undergo and pass a fingerprint background check with costs of \$75, of which \$26 is estimated to benefit the fingerprint processing business. As a result, these fingerprint businesses are projected to have increased revenues ranging from \$260 (10) to \$520 (20) per year and up to \$3,900 over a ten–year period.

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

The Board indicates individuals opting to enroll in a voice writing educational program, take the professional exam, and applying for licensure will incur costs as follows:

- Annual Tuition: Up to \$5,000

- Examination Application: \$40
- Examination Testing: \$75
- Fingerprint Background Check: \$75
- Initial and Renewal License Fees: \$225

The Board does not have information or data for a school to start and provide voice writing educational programs. As a result, the Board does not have a cost estimate at this time.

## RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

### ***Impact on Jobs/Businesses:***

The Board has determined that this regulatory proposal will have an impact on the creation of jobs by expanding pathways to licensure and will not eliminate jobs and may have an impact on new or existing businesses in the State of California.

While the proposed regulations are intended to expand the avenues toward licensure to include voice writing court reporters, the Board does not anticipate a significant increase in the total population of licensees. Instead, the Board anticipates the regulations to increase the number of voice writing applicants and licensees over time with a commensurate reduction in traditional machine shorthand applicants and eventually licensees in the future.

The Board notes that schools providing traditional machine shorthand coursework may begin providing voice writing programs based on student demand. Any increase in voice writing students is anticipated to be offset with a commensurate reduction in traditional machine shorthand students in the future.

### ***Benefits of Regulation***

The Board has determined that this regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state's environment.

The proposed amendments to CCR sections 2403, 2411, and 2414 will help facilitate the licensure of voice writers as certified shorthand reporters as required by BPC section 8017. The certification of shorthand reporters by the voice writing method will help ensure equal treatment of voice writers and will help alleviate pressure on courts struggling to find certified court reporters because demand continues to outgrow supply.

In addition, the proposal will provide a clear set of minimum curriculum requirements that include voice writing elements, which is critical for CRB-recognized court reporting schools to adequately train their students for licensure if they choose to include a voice writing component in their program. This proposal will also help ensure that consumers will be protected by hiring voice writing shorthand reporters who are certified and under CRB's direct jurisdiction.

### ***Business Reporting Requirements***

The regulatory action requires businesses to file reports with CRB. The Board has determined that it is necessary for the health, safety, or welfare of the people of the State that the reporting element of the regulation apply to court reporting schools that are recognized by CRB. The reports are existing requirements under CCR section 2411(l) and (m) and are statutorily mandated by BPC section 8027. This proposal simply updates subsection (m) of CCR section 2411 to have the correct reference to the applicable subsection in BPC section 8027 that relates to the annual statements that recognized court reporting schools must file with the Board. Court reporting schools pay no fees to the Board for the review or recognition of their program or for the filing of the annual statements that are required by BPC section 8027 and CCR section 2411.

### ***Effect on Small Business***

The Board has determined that the proposed regulations will not affect small businesses. Although some CRB licensees may be small businesses, the Board does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

This regulatory proposal will not have a significant statewide adverse economic impact directly affecting small businesses including the inability of California small businesses to compete with businesses in other states.

## CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833 during the written comment period or at the hearing if one is scheduled or requested.

## AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

CRB has compiled a record for this regulatory action, which includes the Initial Statement of Reasons, proposed regulatory text, and all the information upon

which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based may be obtained upon request from the Board at 2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the contact person named below or by accessing the website listed below.

#### CONTACT PERSONS

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

Name: Betsy Figueira  
Address: Court Reporters Board of California  
2535 Capitol Oaks Drive, Suite 230  
Sacramento, CA 95833  
Telephone Number: (916) 263-3660  
Fax Number: (916) 263-3664  
Email Address: [Betsy.Figueira@dca.ca.gov](mailto:Betsy.Figueira@dca.ca.gov)

The backup contact person is:

Name: Yvonne Fenner  
Address: Court Reporters Board of California  
2535 Capitol Oaks Drive, Suite 230  
Sacramento, CA 95833  
Telephone Number: (916) 263-3660  
Fax Number: (916) 263-3664  
Email Address: [Yvonne.Fenner@dca.ca.gov](mailto:Yvonne.Fenner@dca.ca.gov)

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed and modified text, if any, can be accessed through the Board's website at <https://www.courtreportersboard.ca.gov/lawsregs/index.shtm>.

### TITLE 16. VETERINARY MEDICAL BOARD

#### RVT EQUIVALENT EXPERIENCE AND EDUCATION

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

#### PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

#### WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or email to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than 5:00 p.m. on Tuesday, October 24, 2023**, or must be received by the Board at the hearing, should one be scheduled.

## AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 4808 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section 4841.5 of said code, the Board is considering amending section 2068.5 of article 6 of division 20 of title 16 of the California Code of Regulations (CCR<sup>1</sup>).

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 4800.1 mandates that the protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. BPC section 4808 authorizes the Board, in accordance with the Administrative Procedure Act (Government Code section 11400 et seq.), to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Veterinary Medicine Practice Act (Practice Act) (BPC section 4800, et seq.).

BPC section 4841.5 requires a registered veterinary technician (RVT) to furnish satisfactory evidence of one of the following: (1) graduation from at least a two-year accredited program, (2) combined education and clinical practice experience, or (3) certification of completing the education equivalency through the American Association of Veterinary State Boards' Program for the Assessment of Veterinary Education Equivalence for Veterinary Technicians. The Board has promulgated regulations that provide minimum standards for RVT students to complete their combined education and clinical practice experience (also known as the alternate route program).

This regulatory proposal will amend CCR section 2068.5 regarding RVT students and alternate route programs and remove barriers to licensure by making clarifications to instructor qualification requirements and removing the restrictions that individuals complete their clinical practice of 4,416 hours within five years, but not less than two years, to give RVT students greater flexibility to complete the experience requirement, so long as a California-licensed veterinarian verifies the experience.

### Anticipated Benefits of Proposal

The Board anticipates that RVT students in the alternate route pathway will benefit from Board clarification of instructor requirements in alternate route veterinary technician programs and from the Board allowing RVT applicants to earn their registration

without restrictions to complete coursework or experience requirements within specific timeframes.

The Board anticipates RVT instructors will benefit from clarifying the necessary qualifications, and RVT students will benefit from the removal that the requirement that coursework and experience must be completed within designated timeframes. This proposal is anticipated to reduce barriers to licensure by eliminating the requirement that an applicant retake already completed coursework and complete their directed clinical experience hours within certain timeframes, which will provide greater access to veterinary care to consumers by increasing the amount of RVTs in the workforce.

### Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations of these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

## FISCAL IMPACT ESTIMATES

**Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:** The Board anticipates a minor decrease in Board costs as a result of amending the section identified in the regulatory proposal. By revising these requirements, instructor qualifications are made clearer, and coursework and experience will not have to be completed within designated timeframes.

The Board estimates approximately 426 applicants will be impacted per year. It takes a Program Technician II approximately 30 minutes to review an individual's education and experience history at estimated costs of \$32 per application, which results in annual costs (savings) of approximately \$13,600 per year.

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

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

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

**Significant Effect on Housing Costs:** None.

## BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that this proposal 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, as the proposal only clarifies RVT instructor qualifications and removes

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

the requirement that coursework and experience must be completed within designated timeframes.

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

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Board has determined that this regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it does not impose requirements for businesses to hire or eliminate RVTs.
- It will not create new business or eliminate existing businesses within the State of California because RVTs must work under a licensed veterinarian to practice in California.
- It will not affect the expansion of businesses currently doing business within the State of California because it does not impose additional requirements for a managing licensee (veterinarian) or owner of a veterinary premises.

This regulatory proposal has the following benefits:

- It affects the health and welfare of California residents because it helps to improve access to veterinary care for Californians and their animals by eliminating unneeded time limitations placed on RVT students to complete education requirements; it may help increase the number of RVTs in California.
- It does not affect worker safety because it does not involve worker safety.
- It does not affect the state's environment because it does not involve the environment.

**Impact on Jobs/Businesses:** The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

**Benefits of Regulation:** The regulatory proposal benefits the health and welfare of California consumers and their animals because the proposed regulations would clarify RVT instructor qualifications and remove the requirement that coursework and experience must be completed within a designated amount of time. The regulatory proposal would also benefit RVT applicants and consumers to address the access to veterinary care issue related to veterinary staffing shortages in the state. By removing time restrictions regarding the completion of the education and experience requirements, Board staff can more quickly approve RVTs applications for registration. The reg-

ulatory proposal may positively affect the health and welfare of California residents by reducing barriers to licensure for RVTs and increasing the number of RVTs available to help California consumers and their animals.

**Business Reporting Requirements:** The regulatory action does not require businesses to file a report with the Board.

**Effect on Small Business:** The Board has made an initial determination that the proposal will not affect small businesses, as the proposal only clarifies RVT instructor qualifications and removes the requirement that coursework and experience must be completed within designated timeframes.

#### CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1747 North Market Boulevard, Suite 230, Sacramento, CA 95834 during the written comment period, or at the hearing if one is scheduled or requested.

#### AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

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

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 1747 North Market Boulevard, Suite 230, Sacramento, CA 95834.

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

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

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

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

Once it has been prepared, a copy of the Final Statement of Reasons may be obtained by making a written request to the Contact Persons named below or by accessing the website listed below.

**CONTACT PERSONS**

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

Name: Jeffrey Olguin  
Address: Veterinary Medical Board  
1747 North Market Boulevard, Suite 230  
Sacramento, CA 95834  
Telephone Number: 916-282-6893  
Fax Number: 916-928-6849  
Email Address: [jeffrey.olguin@dca.ca.gov](mailto:jeffrey.olguin@dca.ca.gov)

The backup contact person is:

Name: Kim Phillips-Francis  
Address: Veterinary Medical Board  
1747 North Market Boulevard, Suite 230  
Sacramento, CA 95834  
Telephone Number: 916-282-6907  
Fax Number: 916-928-6849  
Email Address: [kim.phillips-francis@dca.ca.gov](mailto:kim.phillips-francis@dca.ca.gov)

**AVAILABILITY OF DOCUMENTS  
ON THE INTERNET**

Copies of the Notice of Proposed Regulatory Action, Initial Statement of Reasons, and Proposed Regulatory Language of the regulations can be accessed through the Board's website at [https://www.vmb.ca.gov/laws\\_regs/proposed\\_regs.shtml](https://www.vmb.ca.gov/laws_regs/proposed_regs.shtml).

**TITLE 18. BOARD OF EQUALIZATION**

**AUDIT SELECTION**

**NOTICE IS HEREBY GIVEN** that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to amend California Code of Regulations, title 18, section (Rule or Property Tax Rule) 192, *Audit Selection*. This Rule implements, interprets, and makes specific certain audit provisions provided in section 469 of the Revenue and Taxation Code.<sup>1</sup>

**PUBLIC HEARING**

The Board will conduct a meeting on November 14-15, 2023, in-person and via teleconference. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's website at [www.boe.ca.gov](http://www.boe.ca.gov) at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. on November 14-15, 2023, or as soon thereafter as the matter may be heard at the Board's November 14-15, 2023 meeting. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of amendment to Property Tax Rule 192.

**AUTHORITY**

Government Code section 15606, subdivision (c).

**REFERENCE**

Revenue and Taxation Code sections 106, 469, and 470.

<sup>1</sup> All further statutory references are to the Revenue and Taxation Code unless otherwise indicated.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

*Current Law*

Under existing property tax law, an annual ad valorem tax is imposed on assessable property used in a trade or business. Taxpayers typically self-report the cost of such property to the local County Assessor on a “business property statement”, as provided for by section 441. The business property statement shows all taxable business property, both real and personal, which is owned, claimed, possessed, controlled, or managed by the person filing the property statement.

To encourage the accurate and proper reporting of such property, section 469 requires County Assessors to annually audit a certain number of taxpayers, with the number varying by county. Effective January 1, 2019, Senate Bill (SB) 1498 (Stats. 2018, Chapter 467) amended section 469 to provide County Assessors flexibility in meeting annual audit requirements. Beginning with the 2019–20 fiscal year, County Assessors may meet the requirements of section 469 by completing four years’ worth of required annual audits anytime within a set four-year period.

*Effects, Objectives, and Benefits of the Amendment to the Property Tax Rule*

Under the authority of Government Code section 15606, subdivision (c), which authorizes the Board to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and County Assessors when assessing, the Board adopted Property Tax Rule 192, *Audit Selection*, to implement, interpret, and make specific the audit requirements of section 469.

Following the enactment of SB 1498, an additional amendment was deemed necessary to further implement, interpret, and make specific certain provisions in section 469 (the Proposed Amendment).

The amendment to Rule 192 makes the following change:

- Subdivision (c)(4) was added. It clarifies that a County Assessor meets the section 469 requirements if they complete four years’ worth of audits anytime within a set four-year period. This subdivision also clarifies that the first four-year period begins with the 2019–2020 fiscal year.

The above amendment is reasonably necessary for the efficient and fair administration of the audit selection provisions under section 469. The Board anticipates that the Proposed Amendment will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, County Assessors, and owners of property subject to the audit selection provisions under section 469. Portions of the Proposed Amend-

ment may duplicate or overlap language found in section 469; however, the “nonduplication” standard found at Government Code section 11349.1, subdivision (a)(6) is met because, pursuant to Code of California Regulations, title 1, section 12, subdivision (b)(1), the duplication or overlap is necessary to satisfy the “clarity” standard of Government Code section 11349.1, subdivision (a)(3). Without the duplication or overlap, the rule would be incomplete or unclear.

The Board has performed an evaluation of whether the amendment to proposed Property Tax Rule 192 is inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Amendment is not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the provisions that would be adopted by the amendment to the Rule. In addition, there is no comparable federal regulation or statute to Property Tax Rule 192.

NO MANDATE ON LOCAL AGENCIES AND  
SCHOOL DISTRICTS

Section 64 of SB 1498 provides an optional timeline for completion of already required audits and the Proposed Amendment clarifies and implements this optional timeline. County Assessors’ offices are already required to audit a certain number of businesses annually and this optional timeline does not increase or decrease the number of required audits. As such, the Proposed Amendment is not anticipated to impose any significant costs on local agencies, i.e., the County Assessors, or school districts. Thus, they do not impose a mandate on a local agency or school district that is reimbursable under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

ONE-TIME COST TO STATE AGENCIES,  
LOCAL AGENCIES, AND  
SCHOOL DISTRICTS

Board staff estimated that the amendment to this rule will result in an absorbable one-time cost of \$922 for the Board to communicate with interested parties and update its website after the rule amendment is completed assuming that the average hourly compensation costs are \$57.60 per hour<sup>2</sup> and that it will take approximately 16 hours. There will be no savings. The Board has determined that the adoption of the Proposed Amendment will result in no other direct or in-

<sup>2</sup> Source: Hourly compensation costs are from the U.S. Bureau of Labor Statistics. Hourly compensation costs are for State and Local Government Workers. *Employer Costs for Employee Compensation — December 2022: Table 3. Employer Costs for Employee Compensation for state and local government workers by occupational and industry group*, <https://www.bls.gov/news.release/ecec.htm>.

direct cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

**NO SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT DIRECTLY  
AFFECTING BUSINESS**

The Board has made an initial determination that the adoption of the Proposed Amendment 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.

**NO AFFECTS TO SMALL BUSINESS**

The adoption of the Proposed Amendment is not expected to affect small business because this regulation provides the additional option to the County Assessors to complete required audits within a set four-year period and does not increase or reduce the number of required audits over the time period.

**NO COST IMPACTS TO PRIVATE  
PERSONS OR BUSINESSES**

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

**RESULTS OF THE ECONOMIC  
IMPACT ASSESSMENT REQUIRED BY  
GOVERNMENT CODE  
SECTION 11346.3, SUBDIVISION (b)**

The Board assessed the economic impact of the Proposed Amendment to Property Tax Rule 192 on California businesses and individuals and determined that the amendment does not constitute a major regulation as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment (EIA) required by Government Code section 11346.3, subdivision (b)(1), for the Proposed Amendment and included it in the initial statement of reasons. In the EIA, the Board has determined that the adoption of the Proposed Amendment will neither create nor eliminate jobs in the State of California, nor create new businesses or eliminate existing businesses within the state, nor expand businesses currently do-

ing business in the State of California. Furthermore, the Board has determined that the adoption of the Proposed Amendment will not affect the benefits of the rule to the health and welfare of California residents, worker safety, or the state's environment. However, the Board anticipates that the Proposed Amendment will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, County Assessors, and owners of property subject to the audit selection provisions under section 469.

**NO SIGNIFICANT EFFECT ON  
HOUSING COSTS**

The adoption of the Proposed Amendment to Property Tax Rule 192 will not have a significant effect on housing costs.

**DETERMINATION REGARDING  
ALTERNATIVES**

The Board must determine that no reasonable alternative considered by it or that has been otherwise 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 that the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the proposed action.

**CONTACT PERSONS**

Questions regarding the substance of the Proposed Amendment should be directed to Mr. Henry Nanjo, Chief Counsel, by telephone at (916) 274-3520, by email at [henry.nanio@boe.ca.gov](mailto:henry.nanio@boe.ca.gov), or by mail at State Board of Equalization, Attention: Henry Nanjo, MIC: 121, P.O. Box 942879, Sacramento, CA 94279-0121.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. David Lujan, Attorney, by telephone at (916) 274-3530, by email at [david.lujan@boe.ca.gov](mailto:david.lujan@boe.ca.gov), or by mail at State Board of Equalization, Attention: David Lujan, MIC: 121, P.O. Box 942879, Sacramento, CA 94279-0121. Mr. Lujan is the designated backup contact person to Mr. Nanjo.

**WRITTEN COMMENT PERIOD**

The written comment period ends at 10:00 a.m. on November 14-15, 2023, or as soon thereafter as the Board holds the public hearing regarding the Proposed



Amendment during the November 14–15, 2023, Board meeting. Written comments received by Mr. David Lujan at the postal address or email address provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the Proposed Amendment. The Board will only consider written comments received by that time.

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

The Board has prepared a version of the Proposed Amendment to Property Tax Rule 192 illustrating the express terms of the Proposed Amendment and an initial statement of reasons for the adoption of the Proposed Amendment, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the Proposed Amendment is based are available to the public upon request. The rulemaking file is available for public inspection at 160 Promenade Circle, Sacramento, CA. The express terms of the Proposed Amendment and the Initial Statement of Reasons are also available on the Board’s website at [www.boe.ca.gov](http://www.boe.ca.gov).

**SUBSTANTIALLY RELATED CHANGES  
PURSUANT TO GOVERNMENT CODE  
SECTION 11346.8**

The Board may adopt the Proposed Amendment with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting regulation, with the change clearly indicated, available to the public for at least 15 days prior to adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the Proposed Amendment orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be made available to the public by Mr. Lujan. The Board will consider written comments on the resulting regulation that are received prior to adoption.

**AVAILABILITY OF FINAL  
STATEMENT OF REASONS**

If the Board adopts the Proposed Amendment, the Board will prepare a final statement of reasons, which will be made available for inspection at 160 Promenade Circle, Suite 200, Sacramento, CA 95834, and available on the Board’s website at [www.boe.ca.gov](http://www.boe.ca.gov).

**TITLE 22. EMPLOYMENT TRAINING  
PANEL**

The Employment Training Panel (ETP) proposes to adopt the proposed regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The ETP will hold a virtual public hearing on 10/24/2023 at 1:00 p.m.

Attendees may participate via the Zoom online meeting platform or telephone conferencing. To participate via the Zoom online meeting platform, please contact Melissa Roper at [Melissa.Roper@etp.ca.gov](mailto:Melissa.Roper@etp.ca.gov), or 916–764–8295 by 4:00 p.m. on 10/23/2023, to request a link to the meeting. A link to the meeting will also be posted under the “Legislation, Regulations, and Rulemaking” heading on the homepage of the ETP website ([www.etp.ca.gov](http://www.etp.ca.gov)) no later than 8:30 a.m. the day of the hearing. To participate by telephone, call 1–888–278–0296 and enter Meeting ID: 817 0054 5975. If needed, the Meeting Passcode is 493955, and the Conference Code is 1185529.

For those who wish to attend the hearing in person, including those who require reasonable accommodations, limited seating will be available in the Sequoia Room, ETP Headquarters, 5<sup>th</sup> Floor, 1100 J Street, Sacramento, CA 95814. Please contact Melissa Roper at [Melissa.Roper@etp.ca.gov](mailto:Melissa.Roper@etp.ca.gov), or 916–764–8295 by Noon (12:00 p.m.) on 10/17/2023, to request to attend the hearing in person, or if reasonable accommodations are necessary. Attendees will need to check in at the security desk in the main lobby of the building before proceeding to the Sequoia Room.

Participants will be given instructions on how to provide oral comment once they have accessed the hearing. The hearing will proceed on the date noted above until all testimony is submitted or 3:00 p.m., whichever is later. At the hearing, any person may present oral or written statements or arguments relevant to the proposed action described in the Informative Digest. The ETP requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony via email to [ETPRulemakingComments@etp.ca.gov](mailto:ETPRulemakingComments@etp.ca.gov).

### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the ETP. The written comment period closes on **October 24, 2023 at 12:00 a.m.** The ETP will consider only comments received at the ETP offices by that time. Submit comments to:

Elisabeth Testa  
The Employment Training Panel  
1100 J Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

Comments may also be submitted by email to [ETPRulemakingComments@etp.ca.gov](mailto:ETPRulemakingComments@etp.ca.gov).

When commenting, please indicate the proposed rulemaking action to which your comment refers.

### AUTHORITY AND REFERENCE

Unemployment Insurance Code section 10205(l) authorizes the ETP to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific sections 10200(a) and 10200(b)(1) of the Unemployment Insurance Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the North American Industrial Classification System (NAICS) codes that qualify employers for the out-of-state competition (OSC) exemption in an ETP contract.

Unemployment Insurance Code Sections 10200(a) and 10200(b)(1) require that the ETP serve companies that are threatened by out-of-state competition (OSC). Unemployment Insurance Code section 10205(l) authorizes the ETP to adopt regulations to establish conditions relating to the conducting of ETP business, including but not limited to the review, approval, and administration of training contracts.

ETP's existing regulation, 22 CCR 4416, addresses multiple ways in which applicants can meet the OSC requirements of the ETP program. 22 CCR 4416(i) specifically lists particular NAICS codes that will automatically meet the OSC requirement. The regulation proposed in this rulemaking action would update existing NAICS codes in the regulation to match new codes created by the recent federal update to the NAICS code database; expand the out-of-state competition exemption to Internet Publishers; and remove the specific date of the NAICS database edition referenced in the existing regulation.

ETP is proposing these regulatory updates since the federal government updated the NAICS database

in 2022, and our regulations therefore require some minor updates in order to remain consistent with that federal program. The federal government, when drafting their changes to the NAICS database in 2022, had as their focus new and emerging industries, and additionally specifically reviewed the benefits of using the 'mode of delivery' (i.e., online versus in-store/in-print) as a factor in delineating industries. The end result of these deliberations was that the mode of delivery should no longer be a deciding factor in industry designations — hence, for example, they have combined internet publishers and brick-and-mortar publishers into one industry classification, rather than keeping them separate. This change directly affected ETP's regulation 22 CCR 4416(i), which followed the old NAICS database delineation system, where internet publishers were in a separate industry from brick-and-mortar companies. It is this change to the federal program which necessitates these proposed regulatory updates. Specifically, the previous 511 NAICS codes for Publishing Industries have been eliminated and updated to new 513 codes. The 511 industry code no longer exists in the NAICS database. Additionally, Internet Publishers originally housed under 51913 were moved into the new 51319 code — which moves internet only publishers into the same industry (513) as brick-and-mortar publishers, in accordance with the overall policy to no longer consider the method of delivery as an industry designation, as noted above. Information regarding these NAICS changes made by the Federal Office of Management and Budget can be found in the Federal Register Volume 86 Number 125, 7/2/2021 ([here](#) and in the Documents Relied Upon area of this regulation proposal package), and in the Federal Register Volume 86 Number 242, 12/21/2021 ([here](#) and in the Documents Relied Upon area of this regulation proposal package).

### ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The broad objective of the regulation is to update ETP's NAICS codes to match the recently updated federal codes, and thereby expand the OSC exemption to Internet Publishers. The specific benefits anticipated from the regulation are to have ETP's regulations remain consistent with the federal NAICS database; to not have any companies that currently have the OSC exemption be denied that exemption due to an outdated NAICS code; and by expanding the OSC exemption to Internet Publishers, to increase this industry's participation in and benefits from participating in the ETP program.

EVALUATION OF INCONSISTENCY/  
INCOMPATIBILITY WITH EXISTING  
STATE REGULATION

The ETP has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the ETP has concluded that these are the only regulations that concern the out-of-state competition requirements under Unemployment Insurance Code Sections 10200(a) and 10200(b)(1).

DISCLOSURES REGARDING THE  
PROPOSED ACTION

The ETP has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

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

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT

The ETP concludes that 1) more Internet Publishers may choose to participate in the ETP program as a result of this proposed regulation change, bringing valuable training to participating employees, and cost savings to participating employers; and that, 2) the Internet Publishing sector may experience a small economic benefit as a result of their increased participation in the ETP program.

Benefits of the Proposed Action: The proposed regulation will benefit California residents by potentially increasing the number of Internet Publishers participating in the ETP program, thus spreading the benefits of the ETP program to more California businesses and employees; not result in any currently OSC exempt industries losing their OSC exemption in the ETP pro-

gram; potentially provide a small economic benefit to the Internet Publishing sector; and potentially reduce the amount of raw materials needed to produce printed materials.

Creation or Elimination of California Jobs: potential for a very small increase in the number of jobs available in internet publishing companies as a result of the similarly small potential increase in the number of internet publishers who may choose to apply for ETP funding;

Creation or Elimination of California Businesses: a very small potential for an increase in the number of internet publishing companies as a result of the expansion of the OSC exemption to these companies;

Expansion of Businesses Currently Doing Business in California: a small potential for an increase in the business activities of internet publishing companies, if they choose to apply for and receive ETP funding.

Benefits on Health and Welfare of California Residents: The ETP foresees no net impact on the health and welfare of California residents, on worker safety, or on the state's environment as a result of this proposed regulation change.

SMALL BUSINESS DETERMINATION

The ETP has determined that the proposed regulation may have a small effect on small businesses.

As noted in the accompanying Initial Statement of Reasons, there is a small chance that some small businesses may benefit from this proposed regulation change by increasing their participation in the ETP program, however, no true or significant impacts will affect small businesses as a result of this proposed regulation change. In summary, since most internet publishing houses are small businesses, and since one result of this proposed regulation change may be that more publishing houses apply for ETP funding, then it is possible that 1) existing internet publishing houses may benefit from ETP training dollars; and 2) that new internet publishing small businesses may be created.

CONSIDERATION OF ALTERNATIVES

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

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

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Elisabeth Testa  
Employment Training Panel  
1100 J Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814  
Telephone: 916-764-8295

The backup contact person for these inquiries is:

Michael Cable  
Employment Training Panel  
1100 J Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814  
Telephone: 916-764-8295

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Elisabeth Testa at the above address.

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

The ETP will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and additional documents including: two Federal Registers, an ETP Panel memo, approved ETP Panel minutes, results of an internal ETP data run, results of two external Employment Development Department Labor Market Information Division (LMID) data runs, and a PowerPoint presentation from LMID. Copies may be obtained by contacting Elisabeth Testa at the address or phone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the ETP may adopt the proposed regulations substantially as described in this notice. If the ETP 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 ETP adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Elisabeth Testa at the address indicated above. The ETP 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 Elisabeth Testa at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the 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://etp.ca.gov/legislation-regulations/>.

### TITLE 22. DEPARTMENT OF SOCIAL SERVICES

ORD #0423-03  
ITEM #

#### DEMENTIA CARE IN RESIDENTIAL CARE FACILITIES FOR THE ELDERLY (RCFES) AND MISCELLANEOUS REGULATION CHANGES

The California Department of Social Services (CDSS) hereby gives notice of the proposed regulatory action(s) described below. A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the public comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be sent to:

California Department of Social Services  
Office of Regulations Development  
744 P Street, MS 8-4-192  
Sacramento, CA 95814  
Tel: (916) 657-2856, Fax: (916) 653-7395  
Email: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

Statements or arguments relating to the proposals may be submitted in writing, email, or by facsimile to the address/number listed above. All comments must be received by October 24, 2023.

Following the public comment period, CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. Except for nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed above. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at *Regulations in Process* [<https://www.cdss.ca.gov/inforesources/letters-regulations/legislation-and-regulations/regulations-home-page/regulations-in-process>]. Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed above. Following the public comment period, copies of the Final Statement of Reasons will be available at the above address.

## CHAPTERS

California Code of Regulations (CCR), Title 22, Division 6, Chapter 8 (Residential Care Facilities for the Elderly), Sections 87101 (Definitions), 87208 (Plan of Operation), 87219 (Planned Activities), 87307 (Personal Accommodations and Services), 87309 (Storage Space), 87455 (Acceptance and Retention Limitations), 87458 (Medical Assessment), 87463 (Reappraisals), 87507 (Admission Agreements), 87606 (Care of Bedridden Residents), 87705 (Care of Persons with Dementia), and 87706 (Advertising Dementia Special Care, Programming, and Environments).

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Residential Care Facilities for the Elderly (RCFE) Act in existing law, housed in Health and Safety Code section 1569, et seq., provides for the licensure and regulation of RCFEs. RCFEs are regarded by statute as a housing arrangement chosen voluntarily by people who are 60 years of age or over, or their authorized representatives, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided based on the varying needs of a person pursuant to Section 1569.2 of the Health and Safety Code. Also pursuant to this statute, persons who are under 60 years of age with compatible needs may be allowed to be admitted or retained in

a RCFE as specified in Section 1569.316 of the Health and Safety Code.

The Department has existing regulations in the California Code of Regulations (CCR), Title 22, Division 6, Chapter 8, that specify regulatory requirements that licensees must meet when they accept or retain residents with a dementia diagnosis. These core dementia care regulations are contained in the following sections:

- 1) Section 87705, Care of Persons with Dementia;
- 2) Section 87706, Advertising Dementia Special Care, Programming, and Environments; and
- 3) Section 87707, Training Requirements if Advertising Dementia Special Care, Programming, and Environments.

Beyond these core regulations, there are other existing regulations relevant to providing dementia care contained in CCR, Title 22. They include regulations that address plan of operation, which established requirements for all facilities, including those that provide dementia care. They also include regulations that address other aspects of operating a facility, which established requirements for all facilities.

The Centers for Disease Control and Prevention (CDC) National Center for Health Statistics reports 2018 data on Alzheimer’s Disease that indicates that 33.1% of residents living in residential care communities have a diagnosis of Alzheimer’s disease or other dementias. In light of the likely prevalence of residents with care needs related to dementia or behavioral expression in RCFEs and interest from stakeholders, the Department determined that regulations updates are needed. The regulatory problem to be resolved is that once a resident is diagnosed with dementia, existing regulations call for additional requirements and restrictions to be imposed on those residents, even if nothing related to care needs for the resident has changed. The Department acknowledges the progressive nature of dementia and the importance of prioritizing care needs related to a resident’s behavioral expression, rather than their specific diagnosis.

These proposed regulations are based on the following five foundational guiding principles that address the regulatory problem from a standpoint beyond dementia care:

- Promote resident retention by removing barriers, allowing seniors to age in place in the least restrictive environment;
- Acknowledge the spectrum of cognitive conditions prevalent in RCFEs;
- Address resident behaviors regardless of diagnosis;
- Focus on person-centered care; and
- Ensure regulatory requirements are carefully considered, reflecting a balanced approach to

care that fosters and supports a robust provider community.

The Department convened a Dementia Care Regulations Workgroup to assist it in integrating care for residents with dementia across facilities. Stakeholders participating in this group included advocate groups represented by the California Advocates for Nursing Home Reform (CANHR) and Justice in Aging; provider groups represented by the California Assisted Living Association (CALA), 6Beds, Inc., Leading Age of California; subject matter experts from the Alzheimer’s Association and the California Association of Long-Term Care Medicine (CALTCM); and Long-Term Care Ombudsman representatives.

Health and Safety Code section 1569.30 gives the Department broad authority to promulgate regulations. The proposed regulations amend multiple sections of the CCR, Title 22 to incorporate requirements related to dementia care:

- 1) Section 87101, Definitions — to add definitions for “behavioral expression,” “elopement,” “major neurocognitive disorder” due to the passage of Senate Bill 413 (Chapter 122, Statutes of 2017), “significant change in condition,” and “unsafe wandering,” and revise definitions for “dementia,” “nonambulatory person,” and “representative.”
- 2) Section 87208, Plan of Operation — to require that the plan include a description of the ways in which the licensee will address resident behavioral expression, including resident assessments, care practices, and safety measures.
- 3) Section 87219, Planned Activities — to incorporate activities from Section 87706, Advertising Dementia Special Care, Programming, and Environments and require that a licensee take precautions to prevent residents from unsafe wandering and elopement that do not conflict with residents’ personal rights.
- 4) Section 87307, Personal Accommodations and Services and Section 87309, Storage Space — to allow resident access to specified items with appropriate supervision.
- 5) Section 87455, Acceptance and Retention Limitations — to eliminate resident acceptance or retention criteria based on dementia diagnosis by requiring that residents be allowed to age in place in the least restrictive environment when appropriate, permit persons who display behavioral expression to be accepted or retained in a facility, and clarify that licensee assistance with managing money must not conflict with resident personal rights.
- 6) Section 87458, Medical Assessment — to require that medical assessment include cognitive conditions and description of any resident behavioral expression.
- 7) Section 87463, Reappraisals — to clarify that resident reappraisals must occur at least once every 12 months and document significant changes in condition, such as changes in cognitive functions; require a safety assessment if there is resident behavioral expression that has caused or may cause harm; and require consultation with specialized care providers.
- 8) Section 87705, Care of Persons with Dementia — to update dementia training requirements by cross-referencing updated Health and Safety Code due to the passage of Assembly Bill 1570 (Chapter 698, Statutes of 2014) and Senate Bill 911 (Chapter 705, Statutes of 2014); require that smaller facilities have at least one night staff person awake and on duty if any resident with dementia is determined to require awake night supervision; and update emergency preparedness requirements related to equipment needed to unlock exterior doors or perimeter fence gates due to passage of Assembly Bill 3098 (Chapter 348, Statutes of 2018). Updates also move substantive portions of the section related to medical assessment, planned activities, and access to specified items to specific sections that address these aspects of care for all residents.
- 9) Section 87706, Advertising Dementia Special Care, Programming, and Environments — to clarify additional information to be included in the plan of operation for these facilities and move substantive portions of the section related to planned activities to Section 87219, Planned Activities to address this aspect of care for all residents.

The proposed regulations also make miscellaneous changes to regulations that do not address dementia care. The definition for “representative” would clarify that acting as a resident representative does not mean that the individual assumes personal responsibility or liability for payment of any charges incurred by the resident. These changes would refer to “significant change in condition” and update general requirements in Section 87303, Maintenance and Operation. They also revise firearms storage requirements due to the passage of Senate Bill 172 (Chapter 840, Statutes of 2019), with related changes to Section 87507, Admission Agreements. In addition, they implement other non-substantive revisions to regulations, such as those in Section 87606, Care of Bedridden Residents.

**Consistency:**

The Department conducted a review of existing and proposed regulations to identify any inconsistency or incompatibility among these regulations. The subject

regulations are the only regulations that provide standards for dementia care in RCFEs. The Department found that the proposed regulations are consistent and compatible with existing regulations. It also found that the proposed regulations are consistent and compatible with the intent of the Legislature in adopting Assembly Bill 1570 (Chapter 698, Statutes of 2014), Assembly Bill 3098 (Chapter 348, Statutes of 2018), Senate Bill 172 (Chapter 840, Statutes of 2019), Senate Bill 413 (Chapter 122, Statutes of 2017), and Senate Bill 911 (Chapter 705, Statutes of 2014) as referenced in this regulatory action.

**Benefits:**

The proposed amendments to regulations would improve the health and welfare of California residents by ensuring that they have access to care in licensed RCFEs that would be required to meet current standards of dementia care as put forth by subject matter experts in the dementia care field. They would require all licensees of RCFEs to provide care for people in a person-centered manner based on their individual needs versus a medical diagnosis, such as dementia. This change would allow more residents to age in place and remain in the RCFEs they have come to know as home and provide peace of mind for their representatives that a resident can age in place as their needs change.

The amendments to regulations would also further promote worker safety. Specifically, they require that licensees evaluate staffing needs to ensure that there is a sufficient number of direct care staff to support each resident’s physical, social, emotional safety, and health care needs as identified in their current appraisal. They do not make changes to regulations involving the state’s environment as they only affect standards for providing dementia care within RCFEs.

The amendments to regulations also assist the regulated community by adding and updating definitions related to dementia care and making other technical or conforming changes, such as adopting, amending, and repealing sections as necessary.

**COST ESTIMATE**

1. Costs or Savings to State Agencies: No fiscal impact.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500–17630: N/A
3. Nondiscretionary Costs or Savings to Local Agencies: No fiscal impact.
4. Federal Funding to State Agencies: N/A

**LOCAL MANDATE STATEMENT**

This is a Department-initiated amendment to regulations to update standards of care for residents in RCFEs as put forth by subject matter experts. The proposed amendments to regulations do not impose a mandate on local agencies or on school districts. There are no “state-mandated local costs” in these regulations which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution or Section 17500 et seq. of the Government Code. The only costs associated with the implementation of these regulations that may be incurred by a local agency will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution. This statement is consistent with the local mandate statements provided in recent legislation that enacted requirements appropriate to the proposed amendments to regulations.

**STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

CDSS has made an initial determination that the proposed amendments to regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Core requirements for dementia care in Section 87705, Care of Persons with Dementia; Section 87706, Advertising Dementia Special Care, Programming, and Environments; and Section 87707, Training Requirements If Advertising Dementia Special Care, Programming, and Environments, have been in effect for RCFEs in California since at least 2008, as shown by the history of these regulations in the Thomson Reuters Westlaw CCR, Title 22, RCFE. The proposed amendments to regulations would build on these existing standards of dementia care.

There may be some costs to licensees of RCFEs as a result of these regulations since they would extend some requirements that previously only applied to licensees that specialize in dementia care to all licensees. These regulations would require licensees to update their plan of operation and admission agreement. They would require licensees to ensure that direct care staff providing dementia care meet expanded dementia care training requirements specified in statute. Also, they would require licensees to universally incorporate dementia care into aspects of operating their facilities, such as having planned activities that are accessible to residents who require dementia care

and including a resident safety assessment as part of reappraisal. In addition, licensees may be required to take measures, such as modifying facility premises, to ensure the safety of residents.

There are also miscellaneous changes to regulations that either do not address dementia care or apply to care for all residents, including those who require dementia care. The definition for “representative” would clarify that acting as a resident representative does not mean that the individual assumes personal responsibility or liability for payment of any charges incurred by the resident. These changes would refer to “significant change in condition” and update general plan of operation, maintenance and operation, and storage space and access requirements. However, these miscellaneous changes align with and enhance existing requirements, so they would not be cumbersome or costly for licensees to implement. They will not have a significant, statewide adverse economic impact directly affecting businesses in California.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Department is aware that there may be some costs to licensees of RCFEs as a result of these regulations since they would extend some requirements that previously only applied to licensees that specialize in dementia care to all licensees. These regulations would require licensees to update their plan of operation and admission agreement. Also, they would require licensees to universally incorporate dementia care into aspects of operating their facilities, such as having planned activities that are accessible to residents who require dementia care and including a resident safety assessment as part of reappraisal. In addition, licensees may be required to take measures, such as modifying facility premises, to ensure the safety of residents. These costs may vary based on the location and size of the facility, as well as the type of measures or modifications that may be needed. For example, a facility may need to take simple low-cost measures such as placing signage at the facility whereas another facility may need construction. Due to these variables, costs may range from zero cost to thousands of dollars in cost.

There are also miscellaneous changes to regulations that either do not address dementia care or apply to care for all residents, including those who require dementia care. The definition for “representative” would clarify that acting as a resident representative does not mean that the individual is personally liable for the resident’s financial obligations to the facility. These changes would refer to “significant change in condition” and update general plan of operation, main-

tenance and operation, and storage space and access requirements. However, these miscellaneous changes align with and enhance existing requirements, so they would not be cumbersome or costly for licensees to implement.

#### SMALL BUSINESS IMPACT STATEMENT

The proposed regulations would apply to all RCFEs. RCFEs with a capacity of six or fewer residents comprise approximately 80 percent of RCFEs licensed by the Department. The Department has determined that there is impact to small businesses because of filing these proposed regulations since these regulations amend and clarify current regulations. They impose new mandates upon licensees that extend the scope of those currently in regulations and will impact RCFE licensees, administrators, direct care staff, and support staff necessary for facility operation as described below.

#### STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The amendments are expected to have some impact on the general creation of jobs in California or result in the general expansion of existing businesses in California, and will impact the duties of RCFE licensees, administrators, direct care staff, and support staff necessary for facility operation. The proposed amendments to regulations will update administrative, operational, and physical plant requirements for providing care in licensed RCFEs. They also make technical, conforming changes, such as adopting, amending, and repealing sections as necessary.

The amendments may cause some licensees to need additional staff and make necessary modifications to facilities, which may result in the creation of jobs in the RCFE industry and industries, such as construction, related to these changes. They may cause some licensees to expand their businesses to meet the need for dementia care, but this expansion would be limited to the RCFE industry.

The amendments would improve the health and welfare of California residents by ensuring that they have access to care in licensed RCFEs that would be required to meet current standards of dementia care as put forth by subject matter experts in the dementia care field. They would require all licensees of RCFEs to provide care for people in a person-centered manner based on their individual needs versus a medical diagnosis, such as dementia. This change would allow more residents to age in place and remain in the RCFEs they have come to know as home and provide peace of mind for their representatives that a resident can age in place as their needs change.



The amendments would also further promote work-er safety. Specifically, they require that licensees evaluate staffing needs to ensure that there is a sufficient number of direct care staff to support each resident’s physical, social, emotional safety, and health care needs as identified in their current appraisal. They do not make changes to regulations involving the state’s environment as they only affect standards for provid-ing dementia care within RCFEs.

STATEMENT OF EFFECT ON  
HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF  
ALTERNATIVES CONSIDERED

In developing the proposed amendments to regu-lations, CDSS did not consider any other alternatives than the one proposed because none were presented for consideration. CDSS needs to use its broad author-ity to promulgate regulations granted by Health and Safety Code section 1569.30 to ensure regulations that address care in RCFEs reflect current standards of care as put forth by subject matter experts.

CDSS must determine that no reasonable alterna-tive considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the reg-ulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in im-plementing the statutory policy or other provision of law.

Without the proposed amendments to regulations, it would be impossible to implement their requirements, which reflect current standards of dementia care, without incurring underground regulation. These reg-ulations will also address requirements appropriate to dementia care that were enacted by recent legislation.

Also, miscellaneous changes to regulations that do not address dementia care or apply to care for all residents, including those who require dementia care, would not be able to be made without the proposed regulations.

AUTHORITY AND  
REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Section 1569.30, Health and Safety Code. Subject regulations implement and make specific Sec-tion 1569.30, Health and Safety Code.

CDSS REPRESENTATIVE REGARDING  
THE RULEMAKING PROCESS OF THE  
PROPOSED REGULATION

Contact Person:

Everardo Vaca (916) 657-2586

Backup:

Oliver Chu (916) 657-2586

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND  
WILDLIFE

HABITAT RESTORATION AND  
ENHANCEMENT ACT  
CONSISTENCY DETERMINATION  
NUMBER 1653-2023-124-001-R1

**Project:** Lower Seiad Off-Channel Fish  
Passage Improvement Project

**Location:** Siskiyou County

**Applicant:** James Peterson, Mid Klamath  
Watershed Council

**Background**

*Project Location:* The Lower Seiad Off-Channel Fish Passage Improvement Project (Project) is located along lower Seiad Creek, a tributary to Middle Klamath River, approximately 1.5 miles from the mouth of Seiad Creek in Seiad Valley, Siskiyou County, CA, (41.84548° North, 123.19033° West; 41.84374° North 123.20597° West; and 41.8434° North, 123.20751° West) at a property owned by Alan May. Seiad Creek supports populations of upper Klamath and Trinity Rivers chinook salmon (*Oncorhynchus tshawytscha*) and southern Oregon/northern California coho salm-on (*Oncorhynchus kisutch*).

*Project Description:* James Peterson, Mid Klamath Watershed Council (Applicant) proposes to enhance or restore habitat within Seiad Creek to provide a net conservation benefit for upper Klamath and Trinity Rivers chinook salmon and southern Oregon/northern California coho salmon. The Project includes up to six beaver dam analog (BDA) structures will be construct-ed at two sites along Seiad Creek, for the purpose of creating deep slow water pools to enhance winter and summer rearing for juvenile salmon. The BDAs will also increase pool depths of natural flood plain ponds to increase both size and quality of habitat. Three of the BDA’s are constructed as follows:

- BDA-1, the downstream-most structure, will be constructed 1.25 feet high and be 35 feet in length (perpendicular to stream flow).
- BDA-2 will be 1.5 feet high and approximately 31 feet in length.
- BDA-3, the upstream-most structure, will be 1.5 feet high and 27 feet in length.

BDA-1 and BDA-2 will be constructed in the main Seiad Creek Channel, and BDA-3 will be constructed in a side channel originally constructed in 2017. The BDAs will each be constructed in close proximity to three off channel ponds with the purpose of maintaining adequate water surface elevation to facilitate and improve fish passage in and out of the ponds for juvenile coho salmon.

The BDAs will be constructed manually using a hydraulic post pounder and hand tools. No heavy equipment will be used. To minimize disturbance to riparian vegetation, the BDA sites will be accessed by cutting a path through blackberries with machetes and hand tools and carrying all tools and equipment directly to the site on foot. Once the fir poles are driven into the stream bed at approximately 30-inch spacing, willow branches will be harvested from the site and woven between the row of poles. The base of each BDA will be reinforced by hand with large gravel, cobble, fines, and shredded vegetation sourced from on site, and then weed-free straw will be packed into the structure to help create seal the structures and create a scour resistant base. BDA-1 and BDA-2 will be constructed in the wetted channel. The side channel that BDA-3 will be constructed in will be dry during implementation.

A gap will be left in the willow weave to ensure that juvenile fish passage is not blocked by the BDAs during summer base flow conditions. It is not anticipated that adult fish passage will not be affected by the Project, however, Mid Klamath Watershed Council staff will monitor adult fish passage in the fall and address any issues related to the structures, if deemed necessary.

Silt fencing will also be installed downstream of the BDA during construction to contain and prevent any discharge of fine sediment within the construction area and all soils exposed by Project activities will be mulched and seeded with weed-free straw and native grass seed mix. The Project work will occur after bird nesting season to not disturb fledglings.

The Project will be implemented in accordance with all information provided in the NOI, designs, and supplemental documentation.

*Project Size:* The total area of ground disturbance associated with the Project is approximately 0.03 acres and 240 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) approximately 75 fir poles, (2) three cubic yards of weed-free straw, (3) three cubic yards of native soil and rock, and (4) four cubic yards of willow cuttings will be discharged to waters of the state.

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

Completion date: August 31, 2024.

Work window: August 15 – October 01.

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish spawning and rearing habitat, 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 1A23079WNSI, Electronic Content Management Identification (ECM PIN) Number CW-888565 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 fish and wildlife.

Receiving Waters: Seiad Creek, a tributary to Middle Klamath River.

Filled or Excavated Areas: Permanent area impacted: none.

Temporary area impacted: 0.03 acres maximum.

Length permanently impacted: 0 linear feet.

Length temporarily impacted: 240 linear feet.

Dredge Volume: None.

Discharge volume: Approximately 75 fir poles, three cubic yards of weed-free straw, three cubic yards of native soil and rock, and four cubic yards of willow cuttings will be discharged to waters of the state.

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 27, 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 Resto-

ration 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 27, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2023-0727-01) on August 11, 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. The specific avoidance and minimization measures as well as water quality protection measures are found in the addendum titled: HREA1653ADDENDUM2023.doc in section titled Species Protection measures Incorporated into the Project Design and supplemental Avoidance and/or Minimization measures to protect Fish, Wildlife, and Plant Resources of the addendum.

**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 titled: MonitoringPlan\_Final.doc, in the section titled, Lower Seiad Off Channel Fish Passage Improvement Project Monitoring Plan, of the addendum.

**Notice of Completion**

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no

later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number 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: [Stacey.Alexander@wildlife.ca.gov](mailto:Stacey.Alexander@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**

CESA CONSISTENCY DETERMINATION  
 REQUEST FOR  
 BORONDA ROAD CONGESTION  
 RELIEF PROJECT  
 2080-2023-015-04  
 MONTEREY COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on August 22, 2023 that City of Salinas Public Work Department proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species

protected by the California Endangered Species Act (CESA). The proposed project involves the widening of the East Boronda Road from Dartmouth Way to approximately 1300 feet east of Natividad Road, from two to four lanes, and the creation of roundabouts at major intersections. Proposed activities will include, but are not limited to, relocation of an agricultural drainage ditch 100 ft to the north, widening of Boronda road, construction of roundabouts and creation of a staging area along McKinnon street. The proposed project will occur on East Boronda Road, near the intersection at McKinnon Street, in the City of Salinas, Monterey County.

The U.S. Fish and Wildlife Service (Service) issued a federal biological opinion (BO) (Service Ref. Number 2022-0079978-S7-001) in a memorandum to the U.S. Army Corps of Engineers on April 24, 2023, which considered the effects of the proposed project on state and federally threatened California tiger salamander (*Ambystoma californiense*). On July 18, 2023, the Service released a letter clarifying the numbering of conservation measures in the April 24, 2023 BO.

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

**SUMMARY OF REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE SECRETARY OF STATE**

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

Department of Human Resources  
File # 2023-0808-02  
Conflict-of-Interest Code

This is a Conflict-of-Interest code that has been approved by the Fair Political Commission and is being

submitted for filing with the Secretary of State and printing only.

Title 02  
Amend: 599.885  
Filed 08/30/2023  
Effective 09/30/2023  
Agency Contact: Aicha Nakamura (916) 445-9904

Department of Insurance  
File # 2023-0724-01  
Workers' Compensation Classification/Rating Rules

In this file-and-print action, the Department of Insurance amends the California Workers' Compensation Uniform Statistical Reporting Plan — 1995. This publication is incorporated by reference in Section 2318.6 in Title 10 of the California Code of Regulations. The full text of this publication is available at the Insurance Commissioner's office and is published by the Workers' Compensation Insurance Rating Bureau of California. These amendments are exempt from the Administrative Procedure Act under the "rates" exemption of Government Code section 11340.9(g) and become effective on September 1, 2024.

Title 10  
Amend: 2318.6  
Filed 08/30/2023  
Effective 09/01/2024  
Agency Contact: Margaret Hosel (916) 492-3567

Office of the State Public Defender  
File # 2023-0802-04  
Conflict-of-Interest Code

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

Title 02  
Amend: 38000, 38000.5, 38000.10  
Filed 08/23/2023  
Effective 09/22/2023  
Agency Contact: Twanna Moore (916) 322-7043

California Coastal Commission  
File # 2023-0714-03  
Annual Increases To Permit Fees & Major Public Works Threshold

This action by the California Coastal Commission adjusts the threshold amount to qualify as a major public works or energy project and the fees for permit applications and other filings.

Title 14  
 Amend: 13012, 13055  
 Filed 08/23/2023  
 Agency Contact: Claire Wilkens (760) 419-8607

Department of Motor Vehicles  
 File # 2023-0718-03  
 Identification Cards Reduced Fee and No Fee

This action by the Department of Motor Vehicles makes changes without regulatory effect to form DL 933 (No Fee Identification Card Eligibility Verification) and form DL 937 (Reduced Fee Identification Card Eligibility Verification) and corresponding revision dates in title 13, sections 15.07 and 15.08.

Title 13  
 Amend: 15.07, 15.08  
 Filed 08/29/2023  
 Agency Contact: Randi Calkins (916) 282-7294

Department of Toxic Substances Control  
 File # 2023-0721-02  
 Import/Export Recovery and Disposal Operation  
 Code Changes

In compliance with Health and Safety Code section 25159, this rulemaking action revises regulations concerning imports and exports of hazardous waste to align with recently modified federal regulations.

Title 22  
 Amend: 66262.81, 66262.83, 66262.84, 66264.12, 66265.12  
 Filed 08/29/2023  
 Agency Contact:  
 Gabby Nepomuceno (916) 251-8328

Air Resources Board  
 File # 2023-0719-01  
 Vapor Recovery Certification Amendments

This action amends vapor recovery certification procedures CP-201, CP-204, CP-206, and CP-207, which are incorporated by reference in title 17 of the California Code of Regulations, to (1) clarify language regarding the Executive Officer's discretion to approve or reject alternative test procedures and (2) make stylistic and formatting changes.

Title 17  
 Amend: 94011, 94014, 94016, 94017  
 Filed 08/29/2023  
 Effective 10/01/2023  
 Agency Contact: Chris Hopkins (279) 208-7347

Board of Optometry  
 File # 2023-0714-01  
 Continuing Education: Purpose and Requirements

This action updates continuing education requirements to reflect the increase in online courses. It defines self-study and live and interactive courses and increases the information retention requirements for continuing education providers and licensees.

Title 16  
 Amend: 1536  
 Filed 08/23/2023  
 Effective 08/23/2023  
 Agency Contact: Gregory Pruden (916) 574-7808

Bureau of Real Estate Appraisers  
 File # 2023-0803-01  
 Controlling Person Requirements

This action conforms section 3576 of Title 10 of the California Code of Regulations to federal regulatory requirements for owners of real estate Appraisal Management Companies (AMCs). More specifically, the regulation is amended to require, consistent with Title 12 C.F.R. section 34.214, that any AMC owner, including a partial owner, report to the Bureau of Real Estate Appraisers if the owner has had a real estate appraiser's license or certification refused, denied, cancelled, revoked, or surrendered in lieu of revocation, in California or any other state.

Title 10  
 Amend: 3576  
 Filed 08/28/2023  
 Effective 10/01/2023  
 Agency Contact: Whitney Spatz (916) 610-9927

California Department of Tax and Fee  
 Administration  
 File # 2023-0717-01  
 Marketplace Sales

This action implements the Marketplace Facilitator Act. It defines terms and clarifies registration requirements for Marketplace Facilitators and Marketplace Sellers. It specifies when a Marketplace Facilitator will be considered a seller and retailer of property and when an advertiser is not required to register with the Department of Tax and Fee Administration and to pay sales tax or collect and remit use tax on sales. Lastly, the action authorizes delivery network companies to elect to be deemed marketplace facilitators.

Title 18  
 Adopt: 1684.5  
 Filed 08/28/2023  
 Effective 08/28/2023  
 Agency Contact: Kim DeArte (916) 309-5227

Commission on Peace Officer Standards and Training  
File # 2023-0718-02  
Amendments to Commission Regulations 1950 and 1953

This action amends peace officer selection and background investigation regulations to conform to Senate Bill Number 960 (2021-2022 Reg. Sess.) which removed citizenship as a barrier to peace officer employment, and Assembly Bill Number 655 (2021-2022 Reg. Sess.) which required that background investigations include investigations into a candidate's involvement in hate groups, speech, and/or activities.

Title 11  
Amend: 1950, 1953  
Filed 08/29/2023  
Effective 08/29/2023  
Agency Contact: Melani Singley (916) 227-4258

Commission on Peace Officer Standards and Training  
File # 2023-0718-05  
Minimum Standards for Training — BCW

In this rulemaking, the Commission on Peace Officer Standards and Training (POST) provides an exception to the usual rule, that out-of-state candidates may only receive a Basic Course Waiver (BCW) or Special Investigators' Basic Course Waiver one time. Under the updated regulations, candidates may apply for the waiver a second time under limited circumstances. POST also updates the requirements for receiving a Basic Course Waiver.

Title 11  
Amend: 1005, 1008  
Filed 08/29/2023  
Effective 10/01/2023  
Agency Contact: Julie Gorwood (916) 227-3915

Department of Veterans Affairs  
File # 2023-0713-01  
Nonveteran Continued Residency

In this resubmitted action, the Department adopts a regulation related to nonveteran continued residency. The regulation adds definitions and specifies when a nonveteran spouse may continue residency in the Veterans Home.

Title 12  
Adopt: 505.13  
Filed 08/23/2023  
Effective 10/01/2023  
Agency Contact: Phil McAllister (916) 653-1961

Agricultural Labor Relations Board  
File # 2023-0718-04  
Filing and Service Requirements, Unfair Labor Practice Proceedings, Representation Election Proceedings, and Supplemental Mandatory Mediation and Conciliation

This rulemaking action by the Agricultural Labor Relations Board updates filing and service requirements, updates procedures in unfair labor practice cases, clarifies rights and obligations of parties in unfair labor practices proceedings, updates requirements in representation election proceedings, and adopts procedures governing requests for supplemental mandatory mediation and conciliation.

Title 08  
Adopt: 20247.1, 20410  
Amend: 20150, 20155, 20160, 20162, 20164, 20166, 20169, 20170, 20190, 20192, 20216, 20217, 20219, 20220, 20222, 20235, 20236, 20238, 20240, 20241, 20242, 20243, 20246, 20248, 20249, 20250, 20262, 20274, 20282, 20286, 20290, 20291, 20299, 20300, 20305, 20310, 20325, 20330, 20335, 20350, 20355, 20360, 20363, 20365, 20370, 20375, 20377, 20382, 20385, 20390, 20393, 20400, 20401, 20402, 20407, 20408, 20910  
Repeal: 20168  
Filed 08/29/2023  
Effective 10/01/2023  
Agency Contact:  
Santiago Avila-Gomez (916) 894-6840

Department of Social Services  
File # 2023-0717-02  
Single License Child Care Center

This rulemaking action by the Department of Social Services amends regulations to provide for Single License Child Care Centers.

Title 22  
Amend: 101152, 101169, 101182, 101185, 101186, 101215.1, 101226.2, 101415, 101415.1, 101416.5, 101417, 101438.3, 101451, 101515, 101516.2, 101538.2, 101538.3, 101561, 101582, 101615, 101616.2, 101638.2, 101638.3, 101639, 101639.1  
Filed 08/28/2023  
Effective 10/01/2023  
Agency Contact: Oliver Chu (916) 657-3588

**PRIOR REGULATORY  
DECISIONS AND CCR  
CHANGES FILED WITH THE  
SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit [oal.ca.gov](http://oal.ca.gov).