



California Regulatory Notice Register

REGISTER 2023, NUMBER 46-Z

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

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PROPOSED ACTION ON REGULATIONS

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Panoche Drainage District

A written comment period has been established commencing on November 17, 2023 and closing on January 2, 2023. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest 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 January 2, 2023. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

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

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

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

TITLE 2. CALIFORNIA CULTURAL AND HISTORICAL ENDOWMENT

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE

NOTICE IS HEREBY GIVEN that the California Cultural and Historical Endowment, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on November 17, 2023, and closing on January 2, 2024. All inquiries should be directed to the contact listed below.

The California Cultural and Historical Endowment, proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include: Add new positions Career Executive Assignment and Staff Services Manager (All Levels) which all participate in making governmental decisions on grant awards.

Information on the code amendment is attached to this email.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than January 2, 2024, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than December 18, 2023.

The California Cultural and Historical Endowment has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should

be directed to: Becki Abrams, Grant Administrator, 916-902-6354 and becki.abrams@resources.ca.gov.

TITLE 2. CALIFORNIA CATASTROPHE RESPONSE COUNCIL

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE

NOTICE IS HEREBY GIVEN that the California Catastrophe Response Council, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on November 17, 2023 and closing on January 2, 2024. All inquiries should be directed to the contact listed below.

The California Catastrophe Response Council proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include: adding the position of Chief Insurance and Claims Officer, renaming the following positions, Chief Risk and Actuarial Officer, Chief Administrative Officer, removing the following positions, Career Executive Assignment, Chief Information Security Officer, Compliance Manager Auditors, Chief Mitigation Officer, Staff Services Manager, Facilities Coordinator, Enterprise Risk Management Officer, Enterprise Project Management Office Manager, edits to disclosure categories to narrow the scope of reporting and also makes other technical changes. The proposed amendment and explanation of the reasons can be obtained from the agency's contact.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than *January 2, 2024*, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than *December 19, 2023*.

The California Catastrophe Response Council has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under

- Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
 5. Will not result in any costs or savings in federal funding to the state.
 6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Shannon McEuen
 California Earthquake Authority
 801 K Street, Suite 1000
 Sacramento, CA 95814
 Phone: (916) 813–0852
 E–mail: smceuen@calquake.com

**TITLE 5. STATE TEACHERS’
 RETIREMENT SYSTEM**

**UPDATES TO PENALTIES AND INTEREST
 FOR LATE REMITTANCE AND LATE AND
 UNACCEPTABLE REPORTING
 BY EMPLOYERS
 SECTIONS 27003, 27004, 27007, 27008, 27010**

The California State Teachers’ Retirement System (“CalSTRS”) and the Teachers’ Retirement Board (“board”) propose to adopt the regulations described hereunder, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Teachers’ Retirement Board will hold a public hearing:

Date and Time

1:00 p.m.
 January 10, 2024

The hearing may be rescheduled to occur as early as 8:00 a.m. or as late as 4:00 p.m. as it is incorporated into the board’s agenda. Please consult the agenda for the meeting, which will be available at www.CalSTRS.com/teachers-retirement-board by December 29, 2023, to confirm the exact time at which the hearing will be held.

Please arrive promptly for check in before the scheduled start time. The hearing will conclude once each speaker present has provided testimony.

Location

California State Teachers’ Retirement System
 Boardroom
 100 Waterfront Place
 West Sacramento, CA 95605

Purpose

To receive oral or written comments about this action. Comments are limited to five minutes per person and must not repeat comments already received in written or verbal form.

Accessibility

The hearing room is accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or visual impairments upon advance request.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to CalSTRS. The written comment period closes on **January 10, 2024**. CalSTRS will only consider written comments received at CalSTRS’ address as reflected below by that date. Submit comments to:

Sal Sanchez
 Governmental Relations
 California State Teachers’ Retirement System
 P.O. Box 15275, MS–14
 Sacramento, CA 95851–0275
 Email: Regulations@CalSTRS.com

AUTHORITY AND REFERENCE

The board has exclusive authority to administer CalSTRS under Article XVI, Section 17 of the California Constitution.

Education Code section 22207 authorizes the board to perform any acts necessary for the administration of the system and the plan in carrying into effect the provisions of the Teachers’ Retirement Law.

Education Code section 22305 provides that any rules and regulations adopted by the board have the force and effect of law.

The proposed amendments to regulations further interpret and make specific Education Code sections 23002, 23003, 23004, 23006, 23008, 26301 and 26303.

The board approved the proposed regulations on September 14, 2023, and directed CalSTRS staff to give public notice and schedule a public hearing before the board.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Under existing regulations that govern the assessment of penalties and interest, the intent is to ensure CalSTRS receives payroll files and contributions in a timely manner. The regulations also ensure the system is made whole for any investment income not earned and state contributions CalSTRS does not receive due to late reporting of creditable compensation and late remittance of contributions. However, there are scenarios not contemplated in existing regulations in which employers may be assessed penalties and interest that are not in line with the intent of those regulations. Such scenarios involve circumstances that are beyond the control of employers or involve circumstances where the employer acted under the direction of CalSTRS. The proposed amendments to regulations address this matter by specifying additional scenarios under which employers may avoid being subject to the assessment of penalties and interest. In addition, the proposed amendments also provide clarification that interest will be charged on outstanding invoices for balances not paid in full within 30 days of the invoice date.

Anticipated benefits of these regulations include reduced administrative workload in processing disputes for employers by clarifying situations under which employers will be exempt from assessed penalties and interest, which will also help employers determine if they should dispute the penalties and interest. In addition, employers will be better able to understand their reporting obligations and the circumstances under which CalSTRS will assess a certain type of interest. No other nonmonetary benefits, such as the protection of public health and safety, worker safety or the environment; the prevention of discrimination; the promotion of fairness or social equity; or an increase in transparency in business and government are anticipated.

The amendments to regulations proposed in this rulemaking action make specific the Education Code as it relates to exemptions for assessed penalties and interest and to interest assessed on outstanding invoice balances not paid in full within 30 days of the invoice date. CalSTRS evaluated whether the proposed regulations were inconsistent or incompatible with existing state regulations and found that there are no overlapping provisions with other state regulations. Thus, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

CalSTRS has made the following initial determinations, as required by the California Administrative Procedure Act and Office of Administrative Law regulations:

1. Mandate on local agencies and school districts:
None. The proposed regulations do not constitute a mandate on school districts or other local agencies. They provide additional exemptions to the to the assessment of penalties and interest under specified circumstances. Employers can avoid interest on outstanding invoices for balances not paid in full within 30 days of the invoice date by paying timely.
2. Cost or savings to any state agency:
None. The proposed regulations are not expected to result in costs or savings to any state agency.
3. Cost to any local agency or school district which must be reimbursed in accordance with California Government Code sections 17500 through 17630:
None. The proposed regulations do not place a mandate on local agencies or school districts, and there would be no costs incurred by these entities.
4. Other nondiscretionary cost or savings imposed on local agencies:
None. There are no requirements imposed on local agencies, and therefore, there are no other nondiscretionary costs or savings.
5. Cost or savings in federal funding to the state:
None. These regulations do not relate to any federal program.
6. Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states:
None. The proposed regulations do not affect businesses.
7. Cost impacts on a representative private person or business:
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. The proposed regulations do not affect private persons or businesses.
8. Results of the economic impact assessment/analysis:
These regulations are not anticipated to have any direct, indirect or induced effect on California businesses. Specifically:

- The action will not have any effect on the creation or elimination of jobs within the state.
- The action will not affect the creation of new businesses or the elimination of existing businesses within the state.
- The action will not affect the expansion of businesses currently doing business within the state.
- The action will have no effect on worker safety and the state’s environment.

This regulatory action will not affect the health and welfare of California residents generally. It is expected to reduce administrative workload in processing disputes for employers.

As stated in the Informative Digest/Policy Statement Overview, the proposed regulations will further clarify and make specific statute as it relates to exemptions to assessed penalties and interest and to interest charged on outstanding invoice balances not paid in full within 30 days of the invoice date. This is anticipated to reduce administrative workload in processing disputes for employers by clarifying situations under which employers will be exempt from assessed penalties and interest and to help employers better understand the circumstances under which CalSTRS will assess a certain type of interest.

9. Significant effect on housing costs:
None. The proposed regulations do not relate directly or indirectly to housing costs.
10. Small business determination:
The board has determined that the proposed regulations do not affect small business as small businesses are not governed or affected, either directly or indirectly, by the statutes that these regulations are clarifying.

CONSIDERATION OF ALTERNATIVES

In accordance with paragraph (13) of subdivision (a) of Government Code section 11346.5, CalSTRS and the board must determine that no reasonable alternative considered or otherwise 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 proposed action, or
- More cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CalSTRS and the board invite interested persons to present any statements or arguments that would sup-

port alternatives to the proposed regulations in the form of written comments or by providing testimony at the public hearing.

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

Sal Sanchez
 Governmental Relations
 California State Teachers’ Retirement System
 P.O. Box 15275, MS–14
 Sacramento, CA 95851–0275
 Telephone: (916) 414–1994
 Email: Regulations@CalSTRS.com

The backup contact person for these inquiries is:

John Maradik–Symkowick
 Governmental Relations
 California State Teachers’ Retirement System
 P.O. Box 15275, MS–14
 Sacramento, CA 95851–0275
 Telephone: (916) 414–1994
 Email: Regulations@CalSTRS.com

Please direct requests for copies of the proposed text 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 CalSTRS using the contact information listed above.

**AVAILABILITY OF STATEMENT
 OF REASONS AND TEXT OF
 PROPOSED REGULATIONS**

The rulemaking file is available for public inspection and copying throughout the rulemaking process at CalSTRS headquarters, located at 100 Waterfront Place, West Sacramento, CA, 95605. As of the date this notice is published in the California Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons and the Economic and Fiscal Impact Statement (STD 399).

Copies of this notice, the proposed text of the regulations, the Initial Statement of Reasons and the Economic and Fiscal Impact Statement are available at no charge by contacting CalSTRS using the contact information listed above.

**AVAILABILITY OF CHANGED OR
 MODIFIED TEXT**

After considering all timely and relevant comments received, the board may adopt the proposed regulations substantially as described in this notice or may,

on its own motion or at the recommendation of any interested person, modify the proposed regulations.

If the board makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before adopting the regulations as revised. The board will accept written comments on the modified regulations for 15 days after the date on which they are made available. Please refer to www.calstrs.com/regulatory-activity or contact CalSTRS using the contact information listed above for copies of modifications, if any.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, CalSTRS will have the Final Statement of Reasons available for public inspection and copying at its headquarters, located at 100 Waterfront Place, West Sacramento, CA, 95605. Upon filing of the amended regulations with the Secretary of State, the Final Statement of Reasons will also be available temporarily on the CalSTRS website at www.CalSTRS.com/approved-regulations.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Notice of Proposed Rulemaking, the Initial Statement of Reasons and the text of the proposed regulations are posted on the CalSTRS website at www.calstrs.com/regulatory-activity.

TITLE 9. DEPARTMENT OF REHABILITATION

CLIENT-OWNED VEHICLE USE, AMENDING SECTION 7162

The Department of Rehabilitation (hereinafter “DOR”) proposes to amend title 9, California Code of Regulations section 7162 after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The DOR will hold a virtual public hearing on this proposed action starting at **10:00 a.m. on January 8, 2024**, via Zoom Meeting. At the meeting, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The DOR respectfully requests that any person who makes oral comments also submit their comment in writing as well.

Join Zoom Meeting

Meeting ID: 838 0486 1569
Passcode: EZZ70t!*

Join by Telephone

For higher quality, dial a number based on your current location.

Dial: +1 669 900 6833 US (San Jose)
+1 408 638 0968 US (San Jose)
+1 346 248 7799 US (Houston)
+1 253 215 8782 US (Tacoma)
+1 646 876 9923 US (New York)
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
Meeting ID: 838 0486 1569
Passcode: 43811175

Closed captioning will be available within the Zoom meeting application. The Department is providing American Sign Language interpreters for this event. The interpreters will be available within the Zoom meeting application.

As a reasonable accommodation, limited in person seating may be available at the hearing in the Department’s conference room, 721 Capitol Mall, Sacramento, California 95814. Please email Legal@dor.ca.gov or dial (916) 558–5825 by 2:00 p.m. on January 3, 2024, if an accommodation is necessary.

Participants will be given instructions on how to provide oral comment once they have accessed the hearing. The hearing will continue on the date noted above until all testimony is submitted, or until 11:00 a.m., whichever is later. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department 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 Legal@dor.ca.gov.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to:

Department of Rehabilitation
Office of Legal Affairs and Regulations
Attention: Michele Welz
721 Capitol Mall
Sacramento, CA 95814

Comments may also be submitted electronically by email to Legal@dor.ca.gov or by facsimile to (916) 558–5806.

The written comment period closes at **5:00 p.m. on January 8, 2024**. The DOR will consider only

comments received by that time. When commenting, please indicate the proposed rulemaking action to which your comment refers, for example, “section 7162.”

AUTHORITY

Sections 19006 and 19016 of the Welfare and Institutions Code authorizes DOR to adopt these proposed regulations.

REFERENCE

The proposed regulations implement, interpret, and make specific the following federal and state laws and regulations: 29 United States Code section 23; 34 Code of Federal Regulations sections 361.5, 361.42, 361.44, 361.46 and 361.48; and Welfare and Institutions Code section 19150.

INFORMATIVE DIGEST

Summary of Existing Laws and Effect of the Proposed Action

The DOR is the designated state agency providing individualized vocational rehabilitation to Californians with disabilities (clients or consumers) to assist them in preparing for, securing, retaining, advancing in, or regaining an employment outcome in accordance with the Rehabilitation Act of 1973, as amended (29 U.S.C. section 701 et seq.). Depending on the need of the individual client and vocational rehabilitation services approved by DOR, DOR may provide funding to a client for fuel (mileage rate) when they must use their personally owned vehicle to participate in their vocational rehabilitation programs. (29 U.S.C. section 723, 34 C.F.R. section 361.48.)

This rulemaking action amends title 9 of the California Code of Regulations, specifically section 7162, to change the mileage rate used to provide funding to a client for fuel when they must use their personally owned vehicle to participate in their vocational rehabilitation programs. Currently, the mileage rate is established in California Code of Regulations, title 9, section 7162 at \$0.15 per mile and \$0.20 per mile for modified vans. This rate has been in effect since at least 1990, which is when the last substantive change to this regulation was made. This rate is stagnant and does not meet the clients’ needs during times of high, fluctuating fuel prices. The current regulation also has a provision for DOR to calculate actual costs of gasoline and oil when it is less than the established mileage rate.

Objective and Anticipated Benefits of the Proposed Regulation

The proposed changes to California Code of Regulations, title 9, section 7162 are necessary to establish an accurate, updated, mileage rate that fluctuates with the market. Such a mileage rate is necessary to adequately meet the clients’ needs when they must use their personally owned vehicle to participate in their vocational rehabilitation programs.

Allowing the mileage rate to fluctuate with the market is beneficial because it ensures funding to the client that is a more accurate reflection of what is taking place in the economy at the time. Having a more accurate, updated mileage rate established in regulations ensures the support necessary to pay for fuel so clients can drive to jobs, job interviews, appointments, or classes. Furthermore, during times of high gasoline prices, this change in the regulation removes a potential financial barrier to clients achieving employment goals.

In addition, DOR selected to remove the portion of the current regulation that provides for the calculation of actual costs when they are less than the mileage rate. The DOR has selected a rate that would be utilized in all instances because it is equitable to do so, and it saves staff time in having to do a separate calculation.

Finally, the DOR made minor changes to use gender neutral language, replacing “his/her” with “their.”

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

The DOR has determined that the proposed amendments to this regulation are not inconsistent or incompatible with existing state regulations. After conducting a review for other regulations that would relate to or affect the state vocational rehabilitation system, DOR has concluded that these regulations are consistent with all other state regulations that concern California’s vocational rehabilitation program.

DISCLOSURES REGARDING THE PROPOSED ACTION

The DOR has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The DOR estimates the additional total costs to DOR for the proposed amendments to the regulation would range from \$655,000 to \$873,000 for the current State Fiscal Year. Of this amount, DOR estimates that the total fiscal impact of the proposed regulation on federal funding of the vocational rehabilitation program would range from costs of \$516,000 to \$687,000 and \$139,000 to \$186,000 in State General Fund for the current State Fiscal year.

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

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

Cost or savings in federal funding to the state: The DOR estimates the additional total costs to DOR for the proposed amendments to the regulation would range from \$655,000 to \$873,000 for the current State Fiscal Year. Of this amount, DOR estimates that the total fiscal impact of the proposed regulation on federal funding of the vocational rehabilitation program would range from costs of \$516,000 to \$687,000 and \$139,000 to \$186,000 in State General Fund for the current State Fiscal year.

Cost impacts on a representative private person or business: The DOR 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 business, including the ability of California business to compete with businesses in other states: None.

Significant effect on housing costs: None.

Small Business Determination: The proposed amendments to the regulation will not affect small businesses because the amendments involve a change to the calculation for fuel payments to DOR clients and DOR clients are individuals, not businesses. Furthermore, businesses are not involved in DOR's process of providing payments to clients when they use their personal vehicles.

Results of the Economic Impact Analysis and Assessment:

The DOR concludes that it is unlikely that the proposal will (1) eliminate any jobs, (2) create any jobs, (3) create any new businesses, (4) eliminate any existing businesses, and (5) result in the expansion of businesses currently doing business within the state. The DOR bases the assessment on the fact that the proposed amendments to the regulation involve a change to the calculation for fuel payments to DOR clients when they must use their personal vehicles for vocational rehabilitation purposes and DOR clients are individuals, not businesses. Furthermore, businesses are not involved in DOR's process of providing payments to clients when they use their personal vehicles.

Benefits of the Proposed Action: The proposed amendments will benefit the health and welfare of California residents because an accurate, updated mileage rate ensures funding to the client that is a more accurate reflection of what is taking place in the economy at the time. Furthermore, during times of high gasoline prices, this change in the regulation re-

moves a potential financial barrier to clients achieving employment goals.

The proposed amendments are not expected to affect worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), DOR must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DOR would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to any 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 DOR 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 rulemaking action may be directed to:

Michele Welz
Department of Rehabilitation
Office of Legal Affairs and Regulations
721 Capitol Mall
Sacramento, CA 95814
Phone: (916) 558-5825
Email: Legal@dor.ca.gov

The back-up contact person for these inquiries is:

Daisy Hughes, Attorney IV
Department of Rehabilitation
Office of Legal Affairs and Regulations
721 Capitol Mall
Sacramento, CA 95814
Phone: (916) 558-5825
Email: Legal@dor.ca.gov

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

The DOR 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 of Proposed Rulemaking, Proposed Text of the Regulations, and Initial Statement of Reasons. Please di-

rect requests for copies to the contact person(s) listed above. Please contact Legal@dor.ca.gov or (916) 558–5825 if you wish to make an appointment to review the rulemaking file in person. The documents identified above in the rulemaking file are also on the DOR website at <https://www.dor.ca.gov/Home/ProposedRulemakingAndRegs>.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After considering all timely and relevant comments received, DOR may adopt the proposed regulations substantially as described in this Notice. If DOR makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before DOR adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Michele Welz at the address indicated above or email at Legal@dor.ca.gov. The DOR 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 Michele Welz at the address indicated above.

REASONABLE
ACCOMMODATION STATEMENT

The DOR shall provide, upon request, a narrative description of the proposed changes included in the proposed action, in the manner provided by Government Code Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law. Providing the description of proposed changes may require extending the period of public comment for the proposed action for the requesting party.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, Initial Statement of Reasons, and Proposed Text of the Regulations at <https://www.dor.ca.gov/Home/ProposedRulemakingAndRegs>.

**TITLE 11. COMMISSION ON PEACE
OFFICER STANDARDS AND TRAINING**

AMEND COMMISSION REGULATION 1005
MINIMUM STANDARDS
FOR TRAINING — COURSE
NAME CORRECTION

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

Public Comments Due by January 2, 2024.

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

Commission on POST
Attention: Charles Johnson
860 Stillwater Road, Suite 100
West Sacramento, CA 95605–1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) section 13503 (authority of POST), PC §13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific PC §13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Commission Regulation 1005(d) establishes the requirements for Continuing Professional Training (CPT), for certain peace officers and dispatcher personnel who are employed by POST participating departments. Section 1005(d)(3)(A) specifies non–qualifying courses for CPT. In 2017, the Commission approved the recommendations to reduce the District Attorney Investigator course (a non–qualifying course) from 80 hours to 40 hours, as well as change the name. This proposed action will update the course name from *In-*

vestigation and Trial Preparation Course to District Attorney Investigator Transition Course.

This rulemaking action clarifies and makes specific the updated District Attorney Investigator course name in Section 1005(d)(3)(A).

Currently, Commission Regulation 1005 reflects the former course name, *Investigation and Trial Preparation Course*.

The regulation proposed in this rulemaking action will correct the course name from *Investigation and Trial Preparation Course* to *District Attorney Investigator Transition Course*.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulation will update the District Attorney Investigator course name and limit confusion on whether the course applies toward CPT credit, which will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the state's environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern processes and procedures for peace officer eligibility in the state.

FORMS INCORPORATED BY REFERENCE

There are no forms incorporated by reference in this proposed action.

DISCLOSURES REGARDING THE PROPOSED ACTION

POST has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

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

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

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

Cost impacts on a representative private persons or business: POST is not aware of any cost impacts that a representative private person or business would

necessarily incur in reasonable compliance with the proposed action.

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

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect peace officers and dispatcher personnel who are employed by POST participating departments. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect on small businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

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

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity to the course name and CPT requirements for the District Attorney Investigator Transition Course. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to *Charles Johnson* Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630, at (916) 227–4853. General questions regarding the regulatory process may be directed to *Katelynn Poulos* at (916) 227–4894.

TEXT OF PROPOSAL

Individuals may request copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630. These documents are also located on the *POST Website*.

ADOPTION OF PROPOSED REGULATIONS/
AVAILABILITY OF CHANGED OR
MODIFIED TEXT

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

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

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

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

TITLE 11. DEPARTMENT OF JUSTICE

REGULATIONS REGARDING
ADMINISTRATIVE ENFORCEMENT
OF THE SUPERVISION OF TRUSTEES
AND FUNDRAISERS FOR CHARITABLE
PURPOSES ACT

The Department of Justice (Department) proposes to amend sections 300, 300.1, 300.2, 301, 302, 303, 304, 305, 306, 308, 310, 311, 312, 312.1, 313, 314, 315, 316, 328.1, 999.1, 999.2, 999.3, 999.4, 999.6, 999.7, 999.8, 999.9, 999.9.1, 999.9.2, 999.9.3, 999.9.4, and 999.9.5, and to adopt sections 314, 315, 316, 317, 318, 319, 320, 321, 322, and 323 of title 11, division 1, chapters 4 and 15 of the California Code of Regulations concerning charities, charitable trusts, and charitable fundraising, including newly regulated charitable fundraising platforms and platform charities, that are governed by The Supervision of Trustees and Fundraisers for Charitable Purposes Act (Act), Government Code section 12580 et seq.

This rulemaking relates to a prior rulemaking (Office of Administrative Law File Number Z–2022–0517–01), with which the Department chose not to proceed.

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 January 2, 2024 at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Department of Justice
Office of the Attorney General
Charitable Trusts Section
Attention: Brian Armstrong, Deputy Attorney
General
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102–7004
(415) 510–3758
charities.regulations@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: Sections 12581, 12585, 12586, and 12587, 12590, 12598, and 12599.10, Government Code; Sections 5914 and 5918, Corporations Code.

Reference: Sections 11400 et seq., 11425.10, 11425.60, 11500 et seq., 11517, 11518.5, 11519, 12581, 12581.2, 12582, 12582.1, 12583, 12584, 12585, 12586, 12586.1, 12587, 12587.1, 12588, 12589, 12590, 12591, 12591.1, 12594, 12595, 12596, 12597, 12598, 12599, 12599.1, 12599.2, 12599.3, 12599.5, 12599.6, 12599.7, 12599.8, 12599.9 and 12599.10, Government Code; Sections 2205, 5008.6, 5142, 5223, 5225, 5226, 5227, 5230, 5231, 5232, 5233, 5235, 5236, 5237, 5238, 5239, 5240, 5250, 5260, 5617, 5813.5, 5820, 5913, 5914, 5918, 5920, 6010, 6215, 6320, 6510, 6611, 6612, 6613, 6617, 6716, 6721, 6810, 6910, 7142, 7223, 7225, 7231, 7233, 7236, 7237, 7238, 7616, 7820, 7913, 8010, 8510, 8611, 8612, 8613, 8616, 8723, 8810, 9230, 9633, 9640 and 9680, Corporations Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85 and 17510.9, Business and Professions Code; Section 23775, Revenue and Taxation Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

The Act provides the Attorney General with enforcement and supervisory powers over all charitable corporations, unincorporated associations, trustees and other legal entities holding property for charitable purposes, commercial fundraisers for charitable purposes, fundraising counsel for charitable purposes, and commercial coventurers. The Act establishes the Registry of Charitable Trusts, which is administered by the Department of Justice. (Gov. Code, § 12587.1.) Organizations and persons subject to the Act are required to register and file periodic reports with the Attorney General, among other requirements. (Gov. Code, §§ 12585, subdivision (a), 12586, 12599, 12599.1, 12599.2.) The Attorney General is authorized to make rules and regulations regarding the Act, including the time for filing reports, the content of such reports, and the manner of executing and filing them. (Gov. Code, §§ 12586, subdivision (b), 12587.)

The Act prohibits specified acts and practices in the planning, conduct, or execution of any solicitation or charitable sales promotion, including using any unfair or deceptive acts or practices in solicitations or charitable sales promotions, engaging in any fraudulent conduct that creates a likelihood of confusion or misunderstanding, and misrepresenting or misleading

anyone in any manner to believe that another person sponsors, endorses, or approves a charitable solicitation or charitable sales promotion when that person has not given consent in writing to the use of the person's name for these purposes. (Gov. Code, § 12599.6.) The Act also prohibits representing that any part of the contributions solicited by a charitable organization will be given or donated to any other charitable organization unless that organization has consented in writing to the use of its name prior to the solicitation. (Gov. Code, § 12599.6.)

Assembly Bill (AB) 488 amends the Act and, effective January 1, 2023, establishes that charitable fundraising platforms and platform charities are trustees for charitable purposes subject to the Attorney General's supervision. Pursuant to AB 488, the newly enacted Government Code section 12599.9 defines "charitable fundraising platform" to mean certain persons or legal entities that use the internet to provide a website, service, or other platform to persons in this state, and perform, permit, or otherwise enable acts of solicitation to occur. (Gov. Code, § 12599.9, subdivision (a).) The solicitation acts include soliciting donations intended for recipient charitable organizations referenced on the platform, permitting persons who use the platform to solicit donations intended for recipient charitable organizations, referencing charitable organizations to receive donations based on purchases made or other activity performed by persons who use the platform, and providing a customizable platform to charitable organizations that solicit or receive donations through the platform. (Gov. Code, § 12599.9, subdivision (a) (1).) A "platform charity" is a trustee or charitable corporation that facilitates acts of solicitation on a charitable fundraising platform, including soliciting donations through a charitable fundraising platform for itself from donors who use the platform with the implied or express representation that the platform charity may grant donations to recipient charitable organizations, or granting funds to recipient charitable organizations based on purchases made or other activity performed by persons who use the platform. (Gov. Code, § 12599.9, subdivision (a)(5).)

Government Code section 12599.9 requires a charitable fundraising platform, before soliciting, permitting, or otherwise enabling solicitations, to register with the Attorney General's Registry of Charitable Trusts, under oath, on a form provided by the Attorney General. Government Code section 12599.9 requires persons or entities that meet the definition of a charitable fundraising platform and platform charity to register as a charitable fundraising platform. Government Code section 12599.9 requires annual renewal of registration, and for the Attorney General to impose registration and renewal fees and deposit revenues in the

Registry of Charitable Trusts Fund, for use as specified. (Gov. Code, § 12599.9, subdivision (b).)

Government Code section 12599.9 requires a charitable fundraising platform to file annual reports, under oath, with the Registry of Charitable Trusts on a form provided by the Attorney General. Government Code section 12599.9 restricts a charitable fundraising platform or platform charity to soliciting, permitting, or otherwise enabling solicitations, or receiving, controlling, or distributing funds from donations for recipient or other charitable organizations in good standing, as defined. Government Code section 12599.9 requires a charitable fundraising platform or platform charity to provide prescribed conspicuous disclosures that prevent a likelihood of deception, confusion, or misunderstanding before a person can complete a donation or select or change a recipient charitable organization. (Gov. Code, § 12599.9, subdivisions (c)–(e).)

Government Code section 12599.9 requires a charitable fundraising platform or platform charity to obtain the written consent of a recipient charitable organization before using its name in a solicitation. Written consent is not required for certain acts of solicitation if specific requirements are met. Government Code section 12599.9 requires a charitable fundraising platform or platform charity to promptly provide a tax donation receipt after donors contribute. Government Code section 12599.9 prohibits a charitable fundraising platform or platform charity from diverting or otherwise misusing the donations received through solicitation on the charitable fundraising platform, and requires the entity to hold them in a separate account and to ensure donations and grants of recommended donations are sent promptly to recipient charitable organizations with an accounting of any fees imposed for processing the funds. (Gov. Code, § 12599.9, subdivisions (f)–(h).)

Lastly, Government Code section 12599.10 requires the Attorney General to establish rules and regulations they determine to be necessary for the administration of Government Code section 12599.9, in accordance with prescribed requirements. (Gov. Code, § 12599.10.)

Effect of the Proposed Rulemaking:

The proposed rulemaking amends the Department’s regulations consistent with the revised statutes and newly enacted statutes. The forms incorporated by reference similarly implement the registration and reporting requirements created by the new statutes.

Anticipated Benefits of the Proposed Regulations:

Under California law, the Attorney General oversees charities, charitable trustees, professional fundraisers and other persons or legal entities that hold or solicit charitable donations to safeguard charitable assets for the charitable beneficiaries, to ensure donations are used for their intended purposes, and to protect the public and charities from fraud and deceptive or

unfair solicitations. The proposed regulations regulate and supervise persons and entities soliciting charitable donations on internet platforms. Soliciting and giving charitable donations over internet platforms has grown exponentially in recent years, and the proposed regulations allow the Attorney General to properly supervise charitable fundraising platforms and platform charities to better protect the public from fraudulent, deceptive, or unfair charitable solicitations occurring through the platforms, and to safeguard the solicited donations for the benefit of charities and the people of California who receive assistance from them. The Legislature adopted AB 488 to address the lack of specific authority to provide oversight over charitable fundraising platforms and platform charities that operate in California. These entities did not typically register and report under existing registration categories in spite of holding charitable assets or soliciting charitable donations. The newly enacted statutes and proposed regulations allow charitable fundraising platforms and platform charities to report aggregate and more relevant information about charitable donations solicited through their platforms consistent with their record keeping practices, rather than submitting reports for each charity individually, or submitting reports that did not adequately cover their solicitation practices. In addition to increasing protections for the public, the newly enacted statutes and proposed regulations promote transparency and accountability, which will increase donor and consumer confidence in online charitable giving.

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 charitable fundraising platforms and platform charities.

Forms Incorporated by Reference:

- Initial Registration Form (“Form CT–1” Rev. 01/2024)
- Annual Registration Renewal Fee Report (“Form RRF–1” Rev. 01/2024)
- Commercial Fundraiser for Charitable Purposes Annual Registration Form (“Form CT–ICF” Rev. 01/2024)
- Commercial Fundraiser for Charitable Purposes (“Form CT–2CF” Rev. 01/2024)

- Commercial Fundraiser for Charitable Purposes/ Thrift Store Operations (“Form CT–2TCF” Rev. 01/2024)
- Commercial Fundraiser for Charitable Purposes/Vehicle Donation Program (“Form CT–2VCF” Rev. 01/2024)
- Fundraising Counsel for Charitable Purposes Annual Registration Form (“Form CT–3CF” Rev. 01/2024)
- Commercial Coventurer Annual Registration Form (“Form CT–5CF” Rev. 01/2024)
- Commercial Coventurer Annual Financial Report Form (“Form CT–6CF” Rev. 01/2024)
- Notice of Intent to Solicit for Charitable Purposes — Commercial Fundraiser for Charitable Purposes Form (“Form CT–10CF” Rev. 01/2024)
- Notice of Intent to Provide Services Related to Charitable Solicitation — Fundraising Counsel for Charitable Purposes Form (“Form CT–11CF” Rev. 01/2024)
- Initial Registration for Charitable Fundraising Platforms (“Form PL–1” Orig. 01/2024)
- Registration Renewal for Charitable Fundraising Platforms (“Form PL–2” Orig. 01/2024)
- Notification from Platform Charities (“Form PL–3” Orig. 01/2024)
- Annual Fundraising Report for Charitable Fundraising Platforms or Platform Charities (“Form PL–4” Orig. 01/2024)

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department’s Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The Department’s FY 2023–24 expenditures are projected at \$659,000. The Department estimates the registration fees for charitable fundraising platforms and platform charities will generate \$650,000 in revenue. Therefore, the Department does not anticipate revenue to exceed expenditures.

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: Charitable fundraising platforms will be required to pay an annual \$625 registration fee, plus processing fees payable to the Department’s vendor. This fee is

similar to the \$500 annual registration fee charged to other fundraising professionals (commercial fundraiser, fundraising counsel, commercial coventurer).

Platform charities will be required to register annually as trustees. Although the initial registration fee for platform charities as trustees is \$50, the renewal fees range from \$25 to \$1,200, depending on the platform charity’s revenue from the prior year.

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 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 it is (1) unlikely that the proposal will create or eliminate jobs within the state, (2) unlikely that the proposal will create new businesses or eliminate existing businesses within the state, (3) unlikely that the proposal will result in the expansion of businesses currently doing business within the state.

The Department also concludes that:

- (1) The proposal would benefit the health and welfare of the people of California by ensuring charitable assets donated by California residents are used for the intended purpose and for the benefit of California charitable beneficiaries.
- (2) The proposal would not benefit worker safety because it does not regulate worker safety standards.
- (3) The proposal would not directly benefit the state’s environment because it does not change any applicable environmental standards. But these regulations will prevent the misuse of donations made through charitable fundraising platforms and platform charities to charities supporting environmental causes.

Business report requirement: The Department finds it is necessary for the health, safety or welfare of the people of this state that proposed sections 300, 301, 313, and 315, which require a report, apply to businesses. Existing law already requires charities, charitable trustees, professional fundraisers, and other persons or legal entities that hold or solicit charitable donations to register and report to the Registry of Charitable Trusts. The proposed amendments impose registration and reporting requirements on newly regulated charitable fundraising platforms and platform charities. These amendments will benefit the public who will receive more accurate information about charitable donations solicited through charitable fundraising platforms, registrants who will understand what information is required without needing to contact Regis-

try staff, and the Department which will receive more accurate information used to safeguard charitable assets and protect the public from fraud and deceptive or unfair solicitations.

Small business determination: The Department has determined that the proposed action affects small businesses.

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 for charitable fundraising platforms and platform charities to provide required information to the Department. The proposed procedures and forms are the least burdensome way to ensure that charitable fundraising platforms and platform charities provide all required information to the Department. The proposed procedures and forms also ensure that basic financial information will become available to the donating public promoting transparency and allowing for prospective donors to research and assess the performance of charitable fundraising platforms and platform charities, including how they solicit, handle, distribute or spend charitable revenue and assets. The proposed regulations follow existing regulations governing the registration of charities, charitable trustees, professional fundraisers, and other persons or legal entities that hold or solicit charitable donations in California. By modeling existing registration and reporting requirements, the proposed regulations efficiently implement AB 488 in a way that is already familiar to the regulated community.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Justice
Office of the Attorney General
Charitable Trusts Section
Attention: Brian Armstrong, Deputy Attorney
General
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102–7004

(415) 510–3758

charities.regulations@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:

Marlon Martinez
Department of Justice
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
(213) 269–6437
regulations@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 upon request to the contact person above. 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), new and newly revised registry forms incorporated by reference, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, the forms, and the Initial Statement of Reasons are available on the Department’s website at <https://oag.ca.gov/charities/regs/platforms>. 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/charities/regs/platforms>. 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 forms incorporated by reference, and the Initial Statement of Reasons are available on the Department’s website at <https://oag.ca.gov/charities/regs/platforms>.

**TITLE 14. FISH AND GAME
COMMISSION**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 205, 265, 270, 315, 316.5, 399 and 2084 of the Fish and Game Code and to implement, interpret, or make specific sections 713, 1050, and 1054 of said Code, proposes to amend Section 7.40 and 7.50 of Title 14, California Code of Regulations related to Klamath River Dam Removal Sport Fishing Updates.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The Lower Klamath Project (“Project,” FERC Project Number 14083) consists of the decommissioning and removal of four dams on the main stem of the Klamath River (J.C. Boyle, Copco Number 1, Copco Number 2, and Iron Gate), as well as their associated facilities, by the Klamath River Renewal Corporation (KRRC). The Project implements portions of the Klamath Hydroelectric Settlement Agreement (KHSA) between: PacifiCorp; several state, federal, and local government agencies; Native American tribes; nongovernmental organizations; irrigators; and individual stakeholders. The KHSA seeks to return the Klamath River to free-flowing conditions and provide volitional fish passage in the portion of the Klamath River currently occupied by the Project’s dams and associated facilities.

One of the major goals of the Lower Klamath Project is to restore anadromous fish to the Klamath River Basin upstream of the current Iron Gate Dam and allow volitional access to over 400 river miles of habitat upstream in California and Oregon. In California, anadromous fish have been prevented from accessing

their historical habitats upstream of Iron Gate and Copco dams for over 60 and 100 years, respectively. Dam deconstruction activities could start as soon as March 2023 with volitional fish passage likely in late 2024. During deconstruction, much of the area between Iron Gate Dam and the California–Oregon state line will be an active construction site presenting multiple hazards to the public. After deconstruction is completed, the river and surrounding habitat will be changing rapidly with ongoing natural processes and active restoration activities, which will likely also present significant hazards or initially impede the recovery of fish populations.

As a result of the Lower Klamath Project and the restoration of anadromy to the upper Klamath River Basin, the California Department of Fish and Wildlife (Department) will be updating its existing inland sport fishing regulations for the 2024 season. The Department supports actively managing the fishing opportunities in the main stem Klamath River and all anadromous portions of tributaries upstream of the existing Iron Gate Dam location to the California–Oregon state line as these processes take place. At a minimum, the Department anticipates reevaluating angling opportunities on an annual basis and implementing a phased reopening pending post dam removal monitoring results. It is the Department’s goal to provide fishing opportunities as soon as appropriate, which could lead to interim changes between annual regulatory cycles.

Current regulations in the Lower Klamath River (downstream of Iron Gate Dam) allow for an annual KRFC, KRSC, and steelhead trout fishery. As described above, harvest of KRFC and KRSC is allowed following time and area openings and KRFC are additionally subject to quota management. The existing catch and release steelhead trout sport fishery is open year-round downstream of Iron Gate Dam.

Current regulations also allow for a steelhead trout fishery in all waters of Bogus Creek from the fourth Saturday in May through August 31 with a daily bag limit of two hatchery trout or hatchery steelhead. Bogus Creek does not have any clearly defined barriers that would prevent anadromous fish from migrating to the headwaters of Bogus Creek. Bogus Creek is the only anadromous small tributary in the Klamath River Basin that allows sportfishing. All other small anadromous tributaries of the Klamath River Basin are closed to sport fishing. The proposed changes are as follows:

This proposal contains proposed regulation changes for five Klamath River main stem fishing sections and five anadromous tributary fishing sections. Regulation changes for each fishing section contain up to four separate options, ranging from most restrictive (option one) to least restrictive (option four) with re-

gard to fishing opportunities. In between, options two and three represent increasing season length and/or less restrictive fishing gear type allowed. These options should be evaluated independently of each other, and decisions should be made independently for each section; the options are not linked across separate fishing sections.

Amend Subsection 7.40(b)(50) and 7.50(b)(73)

Klamath River Fishing Boundary Revision

Changes are necessary to the definition of anadromous waters of the Klamath River Basin as a result of the removal of Iron Gate Dam. Anadromous waters of the Klamath River Basin post dam removal will include waters that are currently upstream of Iron Gate Dam and will be from the mouth of the river upstream to the California–Oregon state line, and as a result the area description needs to be updated. These regulations propose to increase the number of regulatory units in the mainstem Klamath River.

For mainstem areas downstream of the existing Iron Gate Dam location, the mainstem regulatory unit will be updated from “Klamath River from 3,500 feet downstream of the Iron Gate Dam downstream to the Highway 96 bridge at Weitchpec” to “Lakeview Road Bridge to the I–5 Bridge” and “I–5 Bridge downstream to the Highway 96 bridge at Weitchpec.”

For mainstem areas upstream of the existing Iron Gate Dam location, there will be two mainstem regulatory units: “Lakeview Road Bridge to Copco Road Bridge at Copco” and “Copco Road Bridge at Copco to California–Oregon state line.” These two sub–areas will allow for independent management of the existing mainstem river habitat and the newly created river habitat that is currently under Iron Gate and Copco reservoirs.

Tributary Anadromous Fishing Boundaries

Anadromous waters need to be defined for tributaries including Fall, Jenny, Scotch, and Shovel creeks. The extent of access for anadromous salmon and trout into each of these tributaries has been identified as follows:

- Bogus Creek (all waters of Bogus Creek are anadromous)
- Fall Creek (river mile 1.0 miles upstream of Copco Road)
- Jenny Creek (river mile 2.0 miles upstream of Copco Road)
- Scotch Creek (river mile 0.75 miles upstream of Copco Road)
- Shovel Creek (river mile 2.75 miles upstream of Ager Beswick Road)

The subquota definition for the area of the Klamath River from “3,500 feet downstream of the Iron Gate Dam” needs a landmark reference change to “Lakeview Road Bridge near Iron Gate.”

As noted previously, options are presented for each of the affected five fishing sections surrounding the Klamath River.

Bogus Creek and Tributaries:

- Option 1: close to all fishing in the anadromous portions of the creek.
- Option 2: allow fishing from the fourth Saturday in May through August 31. During this period only artificial lures with barbless hooks would be permitted with a daily bag limit of two hatchery trout or hatchery steelhead.

Klamath River from Copco Road Bridge at Copco to the California–Oregon state line:

- Option 1: close to all fishing.
- Option 2: allow fishing from November 1 through February 28 with artificial lures, barbless hooks, and a daily bag limit of zero.
- Option 3: allow fishing from the fourth Saturday in May through August 31 with artificial lures, barbless hooks, and a daily bag limit of zero.
- Option 4: allow fishing from November 1 through February 28 and from the fourth Saturday in May through August 31 with artificial lures, barbless hooks, and a daily bag limit of zero.

Shovel Creek:

- Option 1: close to all fishing in the anadromous portions of the creek.
- Option 2: allow fishing from the fourth Saturday in May through August 31 with artificial lures, barbless hooks, and a daily bag limit of zero.

Klamath River from Lakeview Road Bridge near Iron Gate to Copco Road Bridge at Copco:

- Option 1: close to all fishing.
- Option 2: allow fishing from November 1 through February 28 with artificial lures, barbless hooks, and a daily bag limit of zero.
- Option 3: allow fishing from the fourth Saturday in May through August 31 with artificial lures, barbless hooks, and a daily bag limit of zero.
- Option 4: allow fishing from November 1 through February 28 and from the fourth Saturday in May through August 31 with artificial lures, barbless hooks, and a daily bag limit of zero.

Fall Creek:

- Close to all fishing in the anadromous portions of the creek.

Jenny Creek:

- Option 1: close to all fishing in the anadromous portions of the creek.

- Option 2: allow fishing from the fourth Saturday in May through August 31 with artificial lures, barbless hooks, and a daily bag limit of zero.

Scotch Creek:

- Option 1: close to all fishing in the anadromous portions of the creek.
- Option 2: allow fishing from the fourth Saturday in May through August 31 with artificial lures, barbless hooks, and a daily bag limit of zero.

Klamath River from I-5 bridge to Lakeview Road bridge near Iron Gate:

- Option 1: close to all fishing.
- Option 2: allow fishing from August 15 through February 28 with artificial lures, barbless hooks, and a daily bag limit of zero.
- Option 3: allow fishing all year with a daily bag limit of two hatchery trout or steelhead and harvest of Chinook Salmon grilse from August 15 through December 31.
- Option 4: allow fishing all year with a daily bag limit of two hatchery trout or steelhead and harvest of Chinook Salmon from August 15 through December 31.

OTHER CHANGES FOR CLARITY

Non-substantive editing and renumbering have been made in subsection 7.40(b) to improve the clarity and consistency of the regulatory.

BENEFIT OF THE PROPOSED REGULATIONS

The benefits of the proposed regulations are conformance with federal fishery management goals, sustainable management of Klamath River Basin fish resources, health and welfare of California residents, and promotion of businesses that rely on salmon sport fishing in the Klamath River Basin.

CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the unique power to adopt regulations governing inland sport fishing (Fish and Game Code sections 200 and 205); no other state agency has the authority to adopt regulations governing inland sport fishing. The Com-

mission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations for any regulations regarding the adoption of Inland Sport Fishing regulations; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

PUBLIC PARTICIPATION

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the **Handlery Hotel San Diego, 950 Hotel Circle North, San Diego, California 92108** which will commence at **8:30 a.m. on Wednesday, December 13, 2022**, and may continue at **8:30 a.m. on Thursday, December 14, 2023**. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the **California Natural Resources Agency Headquarters 1st Floor Auditorium, 715 P Street, Sacramento, California, 95814** commencing at **8:30 a.m. on Wednesday, February 14, 2024**, and may continue at **8:30 a.m. on Thursday, February 15, 2024**. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

It is requested, but not required, that written comments be submitted by 5:00 p.m. on January 25, 2023 at the address given below, or by email to FGC@fgc.ca.gov. **Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on February 9, 2023.** All comments must be received no later than February 15, 2023, during the Commission meeting. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, 715 P Street, 16th Floor, Sacramento, CA 95814.

AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller–Henson, Executive Director, Fish and Game Commission, 715 P Street, 16th Floor, Sacramento, California 95814, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Melissa Miller–Henson or David Haug at FGC@fgc.ca.gov or at the preceding address or phone number.

Senior Environmental Scientist Karen Mitchell, Department of Fish and Wildlife, (Fisheries@wildlife.ca.gov or (916) 205–0250), has been designated to respond to questions on the substance of the proposed regulations.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION/
RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following

initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed regulation is not anticipated to have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. However, limited adverse economic impacts are anticipated for the immediate Klamath River Basin area. The total adverse economic impact of the proposed regulations is projected to range from declines of \$7,656 to \$83,213 in direct sport fishing expenditures. Any adverse impacts to net revenues of local businesses servicing sport fishers would be phased over the year. Direct expenditures circulate within the regional economy through business–to–business spending and induced spending from labor income that expands the total economic impact to \$13,628 to \$148,119. The total seasonal impacts will vary depending on the combination of regulatory options chosen for the sub–areas within the Klamath basin during and after dam removal. Any reduction in anadromous fishing opportunity will be reflected in reductions in visitor spending. If fishing in other nearby areas or alternative visitor activities are not pursued, the drop in visitor spending could induce some business contraction. No combination of options are expected to directly affect the ability of California businesses to compete with businesses in other states because the goods and services are consumed locally and not traded across state lines.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment

Depending on the final combination of options adopted, the Commission anticipates the potential for some impact on the creation or elimination of jobs in California. The potential adverse employment impacts range from no impact to the loss of two full–time equivalent (FTE) jobs. Under all alternatives, due to the limited time period of this regulation’s impact, the Commission anticipates no impact on the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California.

For all of the potential combination of options, the possibility of growth of businesses to serve alternative recreational activities exists. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject

to failure for a variety of causes. Additionally, the long-term intent of the proposed regulatory action is to increase sustainability in fishable salmon stocks and, consequently, promote the long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Preserving future opportunities for a salmon sport fishery encourages a healthy outdoor activity and the consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California’s salmonid resources. The Commission does not anticipate any benefits to worker safety because the proposed action does not affect working conditions.

(c) Cost Impacts on a Representative Private Person or Business

The Commission 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, an estimated 15 to 25 businesses that serve sport fishing activities are expected to be directly and/or indirectly affected by reduced visitor spending that may result in temporary reductions in net revenue.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

The Commission estimates that the Department will not experience any reductions in North Coast Salmon Report Card (and steelhead card) revenue in the current and subsequent two fiscal years because the cards are purchased to fish in several other areas of the state. No costs/savings to federal funding to the State are anticipated. The proposed regulations for managing anadromous waters of the Klamath river basin during and after the removal of four dams will not impose new costs or savings for the Department fisheries or law enforcement branches. Public outreach and communications efforts are coordinated with the dam deconstruction management.

(e) Nondiscretionary Costs/Savings to Local Agencies

No nondiscretionary costs or savings are anticipated for local agencies. Any fishery closures are enforced by the Department. Local governments may experience a decline in sales and transient occupancy taxes (see STD. 399 and Addendum) from periodic declines in salmon angler visits to the areas in proximity of the closures. However, the shifts in regional expenditures are principally caused by the dam deconstruction project that in turn prompts intervals of salmon fishery closures.

(f) Programs Mandated on Local Agencies or School Districts

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code

None.

(h) Effect on Housing Costs

None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, 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.

TITLE 16. BOARD OF REGISTERED NURSING

CONTINUING EDUCATION REQUIREMENTS; EXEMPTIONS

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (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 e-mail 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. on Wednesday, January 3, 2024**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 2715, 2736.5 and 2811.5, and to implement, interpret or make specific BPC sections 2736.5, 2811.5 and 2786, the Board is considering changes to Article 5, Division 14 of Title 16 of the CCR.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations at 16 CCR sections 1451 and 1452 require registered nurses (RN) in California to complete 30 contact hours of continuing education (CE) every two years to maintain an active license and provide circumstances where licensees may be exempt from CE requirements, such as the first two years immediately following initial licensure in California, or military service or disability hardship.

In 2021, the Legislature passed Assembly Bill (AB) 1407 (Burke, Chapter 445, Statutes of 2021), amending BPC section 2811.5 to create a new mandate for Board licensees to complete one-hour of implicit bias training as part of their CE requirements. Although licensees are typically exempt from CE requirements during the first two years immediately following their initial licensure in California, BPC section 2811.5 now establishes that the new implicit bias training requirement is not included in that standing exemption. BPC section 2811.5 requires that, starting January 1, 2023, a licensee still within the first 2 years of holding their license, immediately following their licensure, must complete one-hour of direct participation in an implicit bias course offered by a CE provider that has been approved by the Board.

According to BPC Section 2811.5(h), the Board also has the discretion to provide exceptions from CE requirements for licensees who meet certain criteria. This criterion includes, but is not limited to, residing in another state or country, reasons of health, military service, or other good causes. During their November 2022 and February 2023 meetings, the Board voted that licensees would not be allowed to request an exemption from the new implicit bias training requirement and approved the proposed text. The Board’s

proposal to remove the option of an exemption aims to lessen health care disparities affecting California’s diverse patient population.

This proposal makes specific and clarifies provisions and will amend California Code of Regulations (CCR), Title 16, Division 14, section 1452 to add that all newly licensed licensees in California (both by exam or endorsing in from out of state) shall complete one-hour of implicit bias continuing education (CE) training within the first two years of licensure and may not request an exemption for the one-hour of implicit bias training.

The Board proposes the following changes:

- Amend the Title of Section 1452 from “Exemptions from Continuing Education Requirements” to “Continuing Education Requirements; Exemptions.”
- Amend Subsection (a) of Section 1452 to establish that all licensees must complete one-hour of implicit bias training within their first two years of licensure.
- Amend Subsection (b) of Section 1452 to clarify that the implicit bias training requirement is not subject to the general CE requirement exemption provided during the first two years immediately following licensure.
- Amend Subsection (c) of Section 1452 to clarify that a licensee may not request an exemption from the implicit bias training requirement for reasons of health, military service, or other good cause.

Anticipated Benefits of the Proposed Regulation

The Board has determined that this regulatory proposal does not affect worker safety, or the state’s environment.

This regulatory proposal benefits the health and welfare of California residents by ensuring newly licensed licensees fulfill the one-hour implicit bias CE requirement and are not allowed to request any exemptions, which helps to achieve more fair and equal treatment of residents by competent licensees and promotes consumer protection.

Implicit bias impacts the health care disparities experienced by members of racial, ethnic, or religious minorities and other groups, and instruction in understanding implicit bias will increase awareness among licensees about issues that can unconsciously influence the care they provide and will help them adjust their practices to better serve California’s diverse population. Members of the public will benefit from having a more informed licensee as such education on implicit bias will aid in creating a professional environment that provides equal treatment to patients.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board conducted a search of any similar regulations on this topic and 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.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies: None. The proposed regulations do not result in a fiscal impact to the state. The Board does not anticipate additional workload or costs resulting from the proposed regulations or costs of implementation are a result of current law.

Costs/Savings in Federal Funding to the State: None.

The regulations do not result in federal funding or any cost or savings 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.

Local Mandate: None.

Business Impact: None.

The Board has made an initial determination that this proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business: None.

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

The requirement for specified licensees to complete a one-hour implicit bias training was established by state statute, not this rulemaking package.

Effect on Housing Costs: None.

Business Reporting Requirements: None.

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

EFFECT ON SMALL BUSINESS

The Board has determined that there will be no increased costs for small businesses with the proposed regulations because businesses are Board licensees

and, therefore, are not subject to the one-hour implicit bias training requirement.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Board has determined this regulatory proposal (1) will not create or eliminate jobs; (2) will not create new business nor eliminate existing businesses; (3) will not expand existing businesses in the state of California.

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

This regulatory proposal will affect the general health and welfare of California residents by:

- Ensuring that new RNs are trained to identify implicit bias so that potential harms to patients can be recognized and corrected.
- Aligning with California’s broader efforts to address the racial disparities that exist within the healthcare system and work towards health equity.

The proposed amendments will not affect worker safety and the environment because this regulation does not relate to worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would 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 the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1747 N Market Blvd, Suite 150 Sacramento, CA 95834 during the written comment period, or at the hearing if one is scheduled or requested.

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

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons 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 the information upon which the proposal is based, may be obtained upon request from the person designated in the Notice under Contact Person or by accessing the Board's website, www.rn.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

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

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

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

CONTACT PERSONS

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

Name: Marissa Clark
Address: 1747 N. Market Boulevard, Suite 150
Sacramento, CA 95834
Telephone Number: 916–574–7438
Fax Number: 916–574–7700
Email Address: Marissa.Clark@dca.ca.gov

The backup contact person is:

Name: Ras Siddiqui
Address: 1747 N. Market Boulevard, Suite 150
Sacramento, CA 95834
Telephone Number: 916–574–7922
Fax Number: 916–574–7700
Email Address: brn.regulations@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process on the Board's website. Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations can be accessed at: <https://www.rn.ca.gov/regulations/proposed.shtml>.

TITLE 16. BOARD OF PHARMACY

DESIGNATION OF PHARMACIST-IN-CHARGE

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (board) proposes taking the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under *Contact Person* in this Notice, must be **received by the board at its office by January 2, 2024**, or must be received by the board at the hearing, should one be scheduled.

PUBLIC HEARING

The board has not scheduled a public hearing on this proposed action. The board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or that person's authorized representative, no later than 15 days prior to the close of the written comment period.

The board may, after holding a hearing if requested and considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as 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.

Authority and Reference: Section 4005 of the Business and Professions Code (BPC) authorizes the board to adopt this regulation. The proposed regulation implements, interprets, and makes specific sections 4081, 4113, 4305 and 4330 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The board is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, pharmacists, interns, and pharmacy technicians. The board's mandate and its mission is to protect the public (BPC 4001.1).

Existing pharmacy law establishes the requirement for a pharmacy to designate a pharmacist-in-charge (PIC). This section further provides that the proposed PIC shall be subject to approval by the board and sets forth the requirements for the PIC (BPC 4113).

Existing pharmacy law provides that operation of a pharmacy for more than 30 days without the supervision or management by a PIC constitutes grounds for disciplinary action. Further, this section provides that any person who has obtained a license to conduct a pharmacy, who willfully fails to timely notify the board that a PIC has ceased to act in that capacity shall be subject to summary suspension or revocation of the pharmacy license under specified conditions (BPC 4305).

Existing pharmacy law provides that any person who has obtained a pharmacy license and fails to designate a PIC is guilty of a misdemeanor. Further, a pharmacy owner who commits any act that would subvert or tend to subvert the efforts of the PIC is guilty of a misdemeanor (BPC 4330).

Title 16, California Code of Regulations (CCR) section 1709.1 provides that a PIC of a pharmacy shall be employed at the location and have responsibility for the daily operations of the pharmacy. The section further provisions that the pharmacy owner shall vest the PIC with adequate authority to assure compliance with the laws governing the operation of a pharmacy.

This proposal will amend CCR Section 1709.1 to establish a training requirement for a proposed PIC to ensure the individual has an understanding of the legal obligations of a pharmacist serving as a PIC and an attestation confirming the individuals understanding of the authorities vested in such an individual.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

By establishing an attestation and training requirement, the board will have confirmation that the proposed PIC has a full understanding of the obligations

set forth for a PIC prior to accepting such a position. The proposal is consistent with the board's consumer protection mandate by ensuring the appropriate knowledge needed of those vested with the authority to ensure a pharmacy operates in the compliance with pharmacy law to ensure appropriate patient care.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

While developing these regulations and amendments, the board conducted a search of similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations. As noted above, these amendments make state law more consistent with federal law.

FISCAL IMPACT AND RELATED ESTIMATES

Fiscal Impact on Public Agencies Including Costs/Savings to State Agencies or Costs/Savings in Federal Funding to the State: The board estimates it will take approximately 30 hours of staff time to develop the training module and to implement the training program with one-time costs of \$3,930. There are no cost or savings to any other state agency, and there are no cost or savings in federal funding to the state.

The training module will be posted on the Board's website during routine information technology updates and will not result in additional costs.

The Board currently ensures compliance with its regulation through its inspection and enforcement programs. The board does not anticipate any added workload or costs associated with this regulatory change.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

The board has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States.

This initial determination is based on the following facts:

This initial determination is based on the absence of testimony to that effect during the public discussion and development of the proposed amendments to the regulation. The board provided training will be free to pharmacists.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

Effect on Small Business:

While the board does not have, nor does it maintain, data to determine if any of its licensees (pharmacies and clinics) are a “small business,” as defined in Government Code section 11342.610, the board has made an initial determination that the proposed regulatory action will not affect small businesses. Although the proposed regulation will directly affect businesses statewide, which may include small businesses, the board does not anticipate any adverse economic impact. The board notes that the training requirement established in the proposed regulation will be provided by the board free of charge.

Results of Economic Impact Assessment/Analysis:

Impact on Jobs/New Businesses:

The board concludes that:

- (1) this proposal will not create jobs within California;
- (2) this proposal will not eliminate jobs within California;
- (3) this proposal will not create new businesses within California;
- (4) this proposal will not eliminate existing businesses within California; and,
- (5) this proposal will not expand businesses currently doing business in the State of California.

The board determined that this proposal will not cause any of the foregoing because the changes are not of sufficient magnitude to create those impacts. This proposal establishes a board provided, free training requirement for a proposed PIC to ensure the individual has an understanding of the legal obligations of a pharmacist serving as a PIC and an attestation confirming the individuals understanding of the authorities vested in such an individual.

Additionally, the board determined that this regulatory proposal will not impact worker safety, or the state’s environment as these changes do not involve worker safety or the environment. The board has determined that this regulatory proposal benefits the health and welfare of California residents by ensuring that the PIC has the appropriate knowledge of their responsibility and authority to ensure a pharmacy operates in compliance with pharmacy law to ensure appropriate patient care.

CONSIDERATION OF ALTERNATIVES

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

The board considered if there was an alternative means to ensure a proposed pharmacist-in-charge including allowing training provided by other organizations; however, determined that board provided training would be provided both free of charge and would allow the board to ensure that necessary components are framing of the legal provisions is appropriate.

Any interested person may present statements or arguments in writing relevant to the above determinations at the address listed for the *Contact Person* 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 prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based. 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 of Pharmacy at 2720 Gateway Oaks Drive, Suite 100, Sacramento, California 95833, or from the Board of Pharmacy’s website at <http://www.pharmacy.ca.gov>.

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

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

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

CONTACT PERSON

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

Name: Lori Martinez
Address: 2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone Number: (916) 518-3078
Fax Number: (916) 574-8618
Email Address:
PharmacyRulemaking@dca.ca.gov

The backup contact person is:

Name: Julie Ansel
Address: 2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone Number: (916) 518-3100
Fax Number: (916) 574-8618
Email Address:
PharmacyRulemaking@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at the Board of Pharmacy's website: https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

TITLE 16. DENTAL BOARD

REPLACEMENT LICENSES OR PERMITS AND INACTIVE LICENSES

NOTICE IS HEREBY GIVEN that the Dental Board of California (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 e-mail 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., Wednesday, January 3, 2024**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 1614, 1635.5, 1634.2(c), 1724 and 1724.5 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 700-704, 1601.2, 1614, 1629(b), 1632, 1634.1, 1646.2, 1646.6, 1647.3, 1647.8, 1647.20, 1647.23, 1647.32, 1647.33, 1715, 1716.1, 1718.3, 1724 and 1724.5, the Board is considering amending section(s) 1012, 1017.2 and 1021 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Effect of the Proposed Action

The Board is responsible for licensing and regulating dental professionals in California. The Board licenses an estimated 89,000 dental professionals, including approximately 43,500 licensed dentists; 44,500 registered dental assistants (RDAs); and 1,700 registered dental assistants in extended functions (RDAEFs). The Board is also responsible for setting the duties and functions of an estimated 50,000 unlicensed dental assistants.

Existing Board regulations at section 1012 of title 16 of the California Code of Regulations (CCR) provides that licensees seeking a replacement license shall submit an affidavit or declaration to the Board with evidence demonstrating the loss or destruction of the license certificate. Licensed dentists must also provide fingerprints. Existing regulations at CCR section 1021 sets the fee for a replacement license at \$50.

This regulatory proposal would update current Board processes for applicants to apply for and receive: (1) a replacement pocket license or permit or wall certificate under specified conditions, (2) an inactive license, or (3) an active license (for inactive license holders who want to restore their license to active status). This proposal would rename this section to "Replacement Licenses or Permits" and replaces the requirement for an affidavit or declaration with evidence with the form "Declaration and Request for Replacement Pocket License or Certificate" (Form LIC-9, New 05/23), which is incorporated by reference.

This completed form includes a certification of the loss, theft, destruction or mutilation of their pocket license or certificate, or of a name change requiring issuance of the pocket license or certificate.

Existing statutes at Business and Professions Code (BPC) sections 700-704 require healing arts boards, including this Board, to establish an inactive category of licensure. Existing regulations section 1017.2 requires licensees seeking inactive or active status to complete an Application to Inactivate/Activate Li-

cence (Form LIC–6, New 12/09), which is incorporated by reference, and if they are seeking to change their license status from inactive to active, they must also submit a full set of fingerprints and evidence of having completed the required number of continuing education credits in the two years prior to application.

This regulatory proposal will adopt the form “Application to Activate/Inactivate License (Form LIC–6, New 05/2023), which would be incorporated by reference and have no fee requirement for processing the form itself. It would replace the current “Application to Inactivate/Activate License” (Form LIC–6, New 12/09) which would be repealed. Under this proposal, applicants seeking inactive status cannot be engaged in any activity that would require an active license at the time of application.

Applicants for inactive status would also have to check a box and certify that they have read a notice informing them of: (1) what they cannot do as an inactive licensee pursuant to BPC section 702, (2) the requirements in BPC section 703 for an inactive licensee to renew their license and pay the renewal fee without the need to comply with any continuing education requirements, (3) that prior to reactivating a license the inactive licensee would be required to complete continuing education as specified, and (4) that per BPC section 1718.3 a license not renewed for 5 years from the license expiration date cannot be renewed, restored, reinstated, or reissued.

Instead of providing evidence of completing the continuing education requirements, an applicant seeking to change their license status to active would certify, under penalty of perjury, that they have completed the required continuing education as specified on the form.

The proposal would also make other non-substantive changes to existing text to make pronouns used gender neutral.

Anticipated Benefits of Proposal

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents.

The intent of the proposal is to reduce the administrative burden on licensees and the Board in applying for and processing replacements of pocket licenses and wall certificates, as well as applications for the inactive or active categories of licensure.

Applicants seeking replacement licenses or certificates will already have fingerprints on file, making requesting another set of fingerprints redundant. Eliminating this requirement is intended to simplify completing and processing the application.

The proposal would standardize and make specific the current requirement for “satisfactory evidence” that a license was lost or destroyed by including new regulatory text specifying the conditions under which

a replacement could be requested and include a certification by the applicant to the factual basis for the need for a replacement. This would simplify the application process for the applicant and standardize the review process for Board staff.

Applicants seeking to restore their license to active status must complete the specified amount of continuing education courses in the two years prior to their application (50 credit hours for dentist licensees and 25 credit hours for registered dental assistant and registered dental assistant in extended functions licensees and for orthodontic assistant or dental sedation assistant permit holders.

Current regulations require applicants to submit evidence of course completion. The regulatory proposal would change that requirement to have the applicant certify under penalty of perjury that they have completed the required courses. That reduces the burden on applicants for completing their application and makes it more likely that the applicants will successfully complete their application and avoid processing delays. This change would also make the continuing education requirement consistent with the requirement for license renewal.

This regulatory proposal does not affect worker safety or the state’s environment.

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

1. Declaration and Request for Replacement Pocket License or Certificate, Form LIC–9 (New 05/23).
2. Application to Activate/Inactivate License, Form LIC–6 (New 05/2023) (replaces Application to Inactivate/Activate License, Form LIC–6 (New 12/09).

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 proposed regulations are anticipated to result in a fiscal impact to the state.

The Board estimates one-time workload and costs of approximately \$600 to update and post the replace-

ment application form and the inactive/active application form on the Board's website. Any workload and costs are anticipated to be absorbed within existing resources.

The Board indicates because the replacement and inactive/active applications are currently being processed no additional workload or costs are being reported.

Under this proposal, the license/certificate replacement fee will increase by \$61 from \$50 to \$111. The Board estimates approximately 665 replacement applications are processed annually, which would result in increased revenues of \$40,565 per year and up to \$405,650 over a ten-year period.

The Board notes, fees are not assessed to process the inactive/active applications and no fee revenues are collected.

The Board further notes, this proposal eliminates the fingerprint requirement for replacement applications. The Board estimates a decrease in the Department of Justice's annual revenues of \$21,280 (\$32 per fingerprint) and up to \$212,800 over a ten-year period.

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.

Mandate Imposed on Local Agencies or School Districts: 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:

The proposed regulations revise the current process and fees for licensees to obtain a replacement license/certificate and do not adversely impact licensees operating in the state.

Individuals seeking a replacement pocket license or wall certificate will no longer be required to submit fingerprints with their applications. As a result, these licensees will save approximately \$75 per application.

However, the businesses providing fingerprint services will have reduced revenues. These businesses typically retain \$26 per fingerprint check. As a result, these businesses are projected to incur reduced revenues of \$17,290 per year and up to \$172,900 over a ten-year period.

Cost Impact on Representative Private Person or Business

This proposal increases the replacement wall certificate and pocket license fees by \$61 from \$50 to \$111, which will result in increased costs for 665 individuals of \$40,565 per year and up to \$405,650 over a ten-year period.

There is no fee for the application for inactive status or to change from inactive to active status, and no fee is proposed in this rulemaking.

Individuals seeking a replacement pocket license or wall certificate will no longer be required to submit a fingerprint background check with their applications. As a result, these licensees will save approximately \$75 per application.

However, the businesses providing fingerprint services will have reduced revenues. These businesses typically retain \$26 per fingerprint check. As a result, these businesses are projected to incur reduced revenues of \$17,290 per year and up to \$172,900 over a ten-year period.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses

The Board has determined that this regulatory proposal will not have a 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.

Benefits of Regulation:

This regulatory proposal does not affect worker safety, or the state's environment. The regulatory proposal would have the following benefits to the health and welfare of California residents. This proposal is intended to simplify the application process replacement licenses/certificates and applications for inactive/active license status.

The proposed changes to the regulations for changing a license to inactive status or reactivating an inactive license (Section 1017.2) would clarify the requirements for those seeking either inactive/active license status and are intended to reduce the compliance burden around continuing education requirements and providing evidence of completing the necessary courses. Having this information on the new LIC-6 form is intended to simplify the application process.

Business Reporting Requirements

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

Effect on Small Business

The Board has determined that the proposed regulations will not affect small businesses. Although small businesses owned by licensees of the Board may be

impacted, 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.

To the extent a fingerprint check business is considered a small business, the regulations will decrease revenues to these entities by \$26 per occurrence.

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; 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 2005 Evergreen Street, Suite 1550, Sacramento, California 95815 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 2005 Evergreen Street, Suite 1550, Sacramento, California 95815.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related

to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

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

CONTACT PERSONS

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

Name: Lawrence Bruggeman, Legislative and Regulatory Specialist
Address: Dental Board of California
2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone Number: (916) 263-2027
Fax Number: (916) 263-2140
Email Address: lawrence.bruggeman@dca.ca.gov

The backup contact person is:

Name: Christy Bell, Assistant Executive Officer
Address: Dental Board of California
2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone Number: (916) 263-2187
Fax Number: (916) 263-2140
Email Address: christy.bell@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://dbc.ca.gov/about_us/lawsregs/proposed_regulations.shtml.

TITLE 16. SPEECH–LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

HEARING AID DISPENSING ADVERTISING

NOTICE IS HEREBY GIVEN that the Speech–Language Pathology and Audiology and Hearing Aid Dispensers 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 e–mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than by Wednesday, January 3, 2024**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2531.06 and 2531.95 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section 651, the Board is considering amending section 1399.127 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Speech–Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) is a state agency vested with the authority to license, regulate, and discipline within the practices of speech–language pathology, audiology, and hearing aid dispensing in accordance with the Business and Professions Code (BPC) sections 2530.1 and 2531.02. The Board’s mandate and its mission is to protect the pub-

lic by regulating approximately 35,000 speech–language pathologists, speech–language pathology assistants, speech–language pathology aides, audiologists, dispensing audiologists, audiology aides, hearing aid dispensers, hearing aid dispenser trainees, and temporary hearing aid dispensers who are licensed and registered with the Board and by disciplining those who violate the law. In order to protect the public, the Board requires licensees authorized to dispense hearing aids to advertise in such a way that the advertisement is not false, fraudulent, misleading, or deceptive (BPC section 651).

Existing law, under BPC sections 2531.06 and 2531.95, authorizes the Board to adopt, amend, or repeal regulations that may be necessary to execute any provisions of the Speech–Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act. The Board intends to use its authority to amend the regulation at 16 CCR section 1399.127 that enforces BPC section 651.

There is no existing federal regulation or statute comparable to this proposed regulation.

Due to inquiries the Board has received regarding the lack of clarity in the advertising regulation for the practice of hearing aid dispensing, the Board seeks to revise the regulation to ensure that information advertised will not cause a person to misunderstand the information, be deceived by the information, or both.

The following is a summary of the proposed changes the Board seeks to make:

Amend Section 1399.127 of Article 5 of Division 13.3 of Title 16 of the CCR

This section is amended to clarify that anyone licensed to dispense hearing aids can advertise the fitting and selling of hearing aids in accordance with BPC section 651 and this section. The changes also clarify information required in advertisements, prohibited advertisement, and national advertisement disseminated in California. These changes reduce confusion and protect the public from misunderstanding information that is advertised, being deceived by an advertisement, or both.

Anticipated Benefits of Proposal

The Board is aware of benefits that may occur for businesses or individuals that comply with this regulation over its lifetime. Because the Board’s authority is over licensees and not over all businesses within the industries the Board regulates, the Board cannot provide any estimates for the total number or type of businesses (e.g., private, nonprofit, public, or small business) that may be impacted by this proposed regulation. The Board anticipates over 1,300 licensees in the practice of hearing aid dispensing will be impacted by this proposed regulation.

The Board anticipates an increase in clarity, transparency, and accountability. Licensees will benefit

from this regulatory proposal clarifying and making the requirements more transparent regarding advertising. The public will benefit from licensees being held accountable in how they advertise information, especially as it relates to prices. These types of benefits are unquantifiable and cannot be easily measured or estimated. Therefore, the Board cannot provide information on possible statewide benefits that may occur from this regulation over its lifetime.

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

None.

DISCLOSURES REGARDING THIS PROPOSED ACTION

Nondiscretionary Costs/Savings to Local Agencies: None.

Mandate Imposed on Local Agencies or School Districts: None.

FISCAL IMPACT ESTIMATES

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

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 result in a fiscal impact to the state.

This proposal clarifies provisions related to advertising to reduce confusion for licensees and consumers. The Board does not anticipate additional workload or costs resulting from the proposed regulatory change and any workload increase or costs of implementation are a result of current law.

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

Significant Effect on Housing Costs: None.

BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that this proposed regulatory action will not have 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 fact that advertising is part of business operations and the type

and amount of advertising undertaken is determined by business owners.

Because the Board does not have statutory authority to establish an inspection program to verify if advertisements comply with the proposed regulatory changes, the Board is unable to determine how many businesses will be required to comply, or the cost that they may incur, to replace existing advertisements that do not comply with these proposed regulatory changes.

The Board is not aware of any other economic costs that may occur. The Board is also not aware of any effect the proposed regulatory action will have on housing costs or impact to local agencies or federal funding to the State.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses

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

It will not create new businesses or jobs within the State of California because the proposed regulatory action is related to existing law on hearing aid dispenser advertising, and does not enhance or inhibit industry growth within the industries the Board regulates.

It will not eliminate existing businesses or jobs because the proposed regulatory action is related to existing law on hearing aid dispenser advertising, and does not enhance or inhibit industry growth within the industries the Board regulates.

It will not affect the expansion of businesses within the State of California because the proposed regulatory action is related to existing law on hearing aid dispenser advertising, and does not enhance or inhibit industry growth within the industries the Board regulates.

Benefits of Regulation:

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

It will positively affect the health and welfare of California residents. The Board anticipates an increase in clarity, transparency, and accountability. Licensees will benefit from clarity and transparency in the requirements regarding advertising. The public will benefit from licensees being held accountable in how they advertise information, especially as it relates to prices.

It will not affect worker safety because the proposed regulatory action is related to advertising, and does not concern or impact worker safety.

It will not affect the state’s environment because the proposed regulatory action is related to advertising, and does not concern or impact the State’s environment.

Cost Impact on Representative Private Person or Business

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

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 the initial determination that this proposed regulatory action will not have significant statewide adverse economic impact directly affecting small businesses. This initial determination is based on the fact that advertising is part of business operation and the type and amount of advertising are determined by business owners.

Because the Board does not have statutory authority to establish an inspection program to verify if advertisements comply with the proposed regulatory changes, the Board is unable to determine how many businesses will be required to make changes to comply, or the cost they may incur, to replace advertisements that do not comply with the proposed regulatory changes.

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; 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 1601 Response Road, Suite 260, Sacramento, California 95815 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 1601 Response Road, Suite 260, Sacramento, California 95815.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

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

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

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

CONTACT PERSONS

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

Name: Maria Liranzo; Legislation, Regulations, and Budget Analyst
Address: Speech–Language Pathology and Audiology and Hearing Aid Dispensers Board
1601 Response Road, Suite 260
Sacramento, CA 95815
Telephone Number: (916) 287–7915
Email Address: SpeechandHearingRegulations@dca.ca.gov

The backup contact person is:

Name: Cherise Burns, Assistant Executive Officer
Address: Speech–Language Pathology and
Audiology and Hearing Aid Dispensers Board
1601 Response Road, Suite 260
Sacramento, CA 95815
Telephone Number: (916) 287–7915
Email Address:
SpeechandHearingRegulations@dca.ca.gov

DATE: January 9, 2024
TIME: 9:00 a.m.
LOCATION: California Natural Resources
Headquarters Building
Second Floor Conference Room 2–301
715 P Street
Sacramento, CA 95814
& Remote Participation

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.speechandhearing.ca.gov/board_activity/lawsregs/proposed_regulations.shtml.

**TITLE 23. DEPARTMENT OF WATER
RESOURCES**

MODEL WATER EFFICIENT
LANDSCAPE ORDINANCE

NOTICE IS HEREBY GIVEN that the Department of Water Resources, pursuant to the authority vested in it by Government Code (GC) §65596.5, proposes amendments to the Model Water Efficient Landscape Ordinance. The proposed amendments are updates to the ordinance that simplify and clarify the requirements of the ordinance to facilitate local implementation and improve compliance. A written comment period commences on November 17, 2023, and closes on January 16, 2024. All inquiries should be directed to the contact listed below.

NOTICE OF PUBLIC HEARING TO
CONSIDER THE UPDATED MODEL WATER
EFFICIENT LANDSCAPE ORDINANCE
[Gov. Code, §65596.5(a)]

The Department of Water Resources, Water Use Efficiency Branch, will conduct a public hearing regarding the proposed amended regulation at the time and place noted below. The public hearing will provide a detailed overview of the amended regulation and timeline. At the hearing, any person may present comments orally or in writing relevant to the proposed action described in this notice. The public hearing will be preceded by a staff presentation summarizing updates to the ordinance, followed by an opportunity for the public to ask questions.

The hearing will be recorded and the registration link is: <https://ca-water-gov.zoom.us/j/9162877915>

Sections Affected: Proposed adoption of amendments to California Code of Regulations, Title 23, Chapter 2.7, sections 490 through 495, inclusive, and amended Appendices A, B, C, and D, inclusive.

The Department of Water Resources (Department) proposes to amend the Model Water Efficient Landscape Ordinance (MWELo) to reduce ambiguity, provide clarity, and improve MWELo’s organization. The amendments will facilitate more consistent implementation of MWELo by making the ordinance easier to understand and follow.

The amendments incorporate two new statutory provisions adopted since the last ordinance update in 2015; Government Code (GC) §65596(n) amended in 2018, and GC §65596(e) amended in 2020. GC §65596(n) requires plants to be identifiable at the time of inspection and the Department proposes to implement this by requiring a plant legend, with photographs, to be developed for each project. GC §65596(e), as amended in 2020, directs the Department to reference local, state, and federal laws and regulations regarding standards for water–conserving irrigation equipment. The Department has included such a reference in these amendments. Overall, none of the changes will have a material impact on current MWELo implementation and none of the existing requirements of MWELo will change with the proposed amendments.

The hearing is for the public to provide comments on the proposed regulation. The Department will not take formal action at this public meeting. After consideration of all written and oral comments, the Department will bring the final regulatory language before the California Water Commission (anticipated in early 2024) where the California Water Commission will consider whether to approve the final regulations. If the Commission approves the final regulation, the director of the Department of Water Resources will adopt the regulations.

SPECIAL ACCOMMODATION REQUEST

To request special accommodation or language needs, please contact Julie Saare–Edmonds at 916–715–7289 or WELO@water.ca.gov as soon as possible.

sible, but no later than 10 business days before the scheduled hearing.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Any interested member of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on November 17, 2023.

To be considered by the Department, written comments not physically submitted at the hearing, must be submitted on or after November 17, 2023, and received no later than 5:00 pm on January 16, 2024 and must be addressed to the following:

By mail:

Department of Water Resources
Attention: MWELo Update
Water Use Efficiency Branch
P.O. Box 942836
Sacramento, CA 94236–0001

By email:

WELO@water.ca.gov

The Department requests but does not require email transmission of comments to contain the subject line “Comment Letter — MWELo 2023 Update” to facilitate timely identification and review of the comment.

Hand-delivered to:

Ryan Bailey or Shem Stygar
Department of Water Resources
715 P Street, 6th Floor
Sacramento, CA 95814

All comments, including email should include the author’s name and U.S. Postal Service mailing address so that the Department can provide copies of any notices that may be required in the future.

Due to limitations of the email system, emails larger than 20 megabytes (MB) may be rejected and will not be delivered and received by the Department of Water Resources. Therefore, emails larger than 20 MB should be submitted under separate emails or via another form of delivery.

Please note that under the California Public Records Act (Government Code §6250 et seq.), written and oral comments, attachments, and associated contact information (e.g., address, phone, and email) become part of the public record and can be released to the public upon request.

The Department requests, but does not require, that written and email statements on this item be filed at

least 10 days prior to the public hearing so that the Department has time to consider each comment. The Department encourages members of the public to bring to the attention of staff, in advance of the hearing, any suggestions for modification of the proposed regulatory action.

Additionally, the Department requests, but does not require, that persons who submit written comments reference the draft MWELo amendments in their comments to facilitate review.

AUTHORITY AND REFERENCE

[Gov. Code, §11345.5(a)(2)]

Authority Cited: Government Code Sections 65596 and 65596.5.

References: Government Code Sections 65592, 65593, 65596, 65596.5, and 65598. Civil Code. Sections 1351 through 4100 and 4735. California Fire Code Title 24, Part 9, Chapter 49. Public Resources Code Sections 4291, 21080, and 21082. California Plumbing Code Title 24, Part 5, Chapters 15 and 16.

SUMMARY OF EXISTING LAW AND REGULATIONS

[Gov. Code, §11346.5(a)(3)(A)]

The Department adopted the existing regulations for the MWELo pursuant to Governor’s Executive Order Number B–29–15 in 2015, and they implement Government Code Section 65596. The MWELo provides a standard for the design, installation, management, and maintenance of landscapes to use water efficiently without water waste.

Government Code §65596.5 requires that the Department on or before January 1, 2020, and at least every three years thereafter, after holding one or more public hearings to update or make a finding that an update to the model water-efficient landscape ordinance is not useful or effective. When the ordinance is updated, the Department is required to also submit the updated ordinance to the Building Standards Commission for consideration during the triennial revision process of the California Green Building Standards Code.

EFFECT OF PROPOSED RULEMAKING

[Gov. Code §11346.5(a)(3)(A)]

Local agencies (cities and counties) are required to implement MWELo or water-efficient landscape ordinances at least as efficient as MWELo. University of California, Davis performed a Survey on Barriers to MWELo Implementation in 2022 that described the challenges of local agency MWELo implementation including:

- Lack of clarity on the roles, responsibilities, and reporting requirements for both the local agency and the project applicant.
- Local agencies with limited resources and budgets have a difficult time implementing and enforcing MWELO due to its lack of clarity.

The proposed amendments simplify MWELO’s organization and clarify the requirements so that project applicants and local agencies can more readily and consistently enforce the existing ordinance requirements. These regulations are updated to include new statutory requirements.

COMPARABLE FEDERAL
STATUTE AND REGULATIONS
[Gov. Code §11346.5(a)(3)(B)]

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

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW
[Gov. Code §11346.5(a)(3)(C)]

Local agencies are responsible for adopting and enforcing the ordinance (Government Code §65595). Local agencies can adopt a locally modified water efficient landscape ordinance (WELo) that is at least as efficient as the MWELo.

The draft MWELo amendments include editorial changes to improve the clarity and understanding of existing requirements. The amendments do not add any new material requirements or make changes to any of the existing ordinance requirements.

For specific justification of the changes made, please reference the Initial Statement of Reasons in the Rulemaking Package. A general description of the draft MWELo amendments is:

- 1) The updated ordinance includes two new code requirements that have been adopted since the last update of the MWELo in 2015:
 - a. Government Code §65596(e) (amended in 2018), requires references to local, state and federal laws and regulations regarding standards for water-conserving irrigation equipment. The Department included new language referencing the existing standards for water-conserving irrigation equipment. The standards already exist and MWELo’s reference adds no new requirement.
 - b. Government Code §65596(n) (amended in 2020), requires plants to be identifiable at the time of inspection. This direction is incorporated into MWELo through the re-

- quirement that plant legends be developed for each project. This is already a common practice and will only require the use of free and easily accessible photographs.
- 2) Regulatory language specific to Executive Order (EO) Number B–29–15 is corrected to update out-of-date references and one-time requirements specific to the EO.
- 3) As appropriate, MWELo requirements are amended to remove ambiguity and provide clarity and understanding to what is required:
 - a. Ambiguous requirements are clarified, often by incorporating language from similar and relevant requirements that are more clearly described in other existing sections of the MWELo.
 - b. Section references are added for simplicity and clarity.
 - c. Redundant language and requirements are deleted.
- 4) Consistent terminology is used throughout to describe MWELo’s requirements, improve understanding, enforcement, and reporting.
- 5) Clarity is added to definitions by streamlining definitions, updating definitions to be consistent with definitions used in other California codes and regulations, and adding clarifying language as appropriate.
 - a. Nine definitions are replaced or deleted:
 - a) “Designer of Record” replaces the definitions for: “certified irrigation designer,” “landscape architect,” and “landscape contractor.”
 - b) “Emission device” replaces “emitter.”
 - c) “Dedicated irrigation meter” replaces “landscape water meter.”
 - d) “Drip irrigation” includes the definition for “low volume irrigation” and is included in the regulation text.
 - e) “Main line” is deleted, and the definition moved into regulation,
 - f) “Microclimate” is deleted because it is not used in the regulation.
 - g) Definitions for “single-family residential landscape” and “multifamily residential landscape” replace the definition of “residential landscape.”
 - b. Seventeen new definitions are added to improve clarity on the terms used:
 - a) “Aggregated landscape project,” “applicant signature,” “application rate,” “designee,” “designer of record,” “design review,” “dynamic pressure,”

- “emission device,” “estimated water use,” “low head drainage,” “matched precipitation rate,” “multifamily residential landscape,” “non-volatile memory,” “regular landscape area,” “riser,” “single-family residential landscape,” “water budget calculation,” and “water waste.”
- 6) Contents of MWELo are reorganized to describe as follows: the general requirements, roles and responsibilities, and requirements of the selected compliance option are reorganized to logically describe the process of designing and installing water efficient landscapes, and MWELo reporting.
 - a. *2015 MWELo*: §490. Purpose; §491. Definitions; §492. Provisions for New Construction or Rehabilitated Landscapes; §493. Provisions for Existing Landscapes; §494. Effective Precipitation; §495. Reporting.
 - b. *2023 MWELo Amended*: §490. Purpose; §490.1. General Provisions; §490.2. Definitions; §491. Applicability; §492. Prescriptive Compliance Option; §493. Performance Compliance Option; §494. Certificate of Completion Package; §495. Reporting.
 - 7) Requirements applicable to all landscape projects and both compliance options are reorganized into a new General Provisions section (§490.1). The requirements within the section for general provisions are organized as follows:
 - a. Water Waste Prevention; Recycled Water; Gray Water Systems; Stormwater Management and Rainwater Retention; Fire Safe Landscaping; Plant Selection; Environmental Review; Penalties; and Public Education.
 - 8) §491. Applicability — clarifies the compliance responsibilities of the local agency and the project applicant and when each compliance options is allowed.
 - 9) §492. Prescriptive Compliance Option (previously Appendix D) — the compliance option is moved into the MWELo regulation to improve organization and understanding.
 - 10) §493. Performance Compliance Option — reorganizes primary requirements to logically describe the process of designing and installing water efficient landscapes. For example, the Landscape Design Plan (§493.2.) has been reorganized and includes renamed headings that better explain what the design plan includes: Plant Selection; Water Features; Soil Preparation; and Mulch and Amendments.

- 11) §495. Reporting — clarity is improved with the reporting requirements by reorganizing, clarifying who reports, better defining the reporting period, and what is reported.
- 12) Appendices are reorganized as follows:
 - a. Appendix A — Water Efficient Landscape Worksheet and now includes an instruction sheet. (previously named as Appendix B)
 - b. Appendix B — Certificate of Completion Package. (previously named as Appendix C).
 - c. Appendix C — Reference Evapotranspiration Table (previously named as Appendix A) are updated to span 2004–2021; (2015 MWELo — used a variety of evapotranspiration data). There are now 677 cities or locations included in Appendix C for better statewide representation of local reference evapotranspiration (ET_o); the previous Appendix A had 319 cities. Note: OAL does not allow the use of a website to provide values.
 - d. Appendix D — Prescriptive Compliance Option is moved into the draft regulation and renumbered as §492.

The proposed MWELo amendments simplify MWELo by reducing ambiguities, providing clarity, and improving MWELo’s organization. The amendments will facilitate more consistent implementation of MWELo by making the ordinance easier to understand and follow. The proposed amendments are anticipated to have negligible to no impacts, fiscal or otherwise.

**EVALUATION OF INCONSISTENCY OR
INCOMPATIBILITY WITH EXISTING
STATE REGULATIONS
[Gov. Code §11346.5(a)(3)(D)]**

The Department reviewed existing general regulations and regulations specific to the model water efficient landscape ordinance to evaluate whether the regulation is inconsistent or incompatible with existing state regulations. The Department corrected language and references to the California Business and Professions Code, Civil Code, Fire Code, Food and Agriculture Code, Government Code, Health and Safety Code, Plumbing Code, Public Resources Code, and Water Code. After conducting this review, the department finds that the proposed regulations would not be inconsistent nor incompatible with existing state regulations.

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

Adoption of these amendments are not mandated by federal law or regulations.

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

These amendments must be approved by the California Water Commission pursuant to Water Code section 161, and then adopted by the Director of the Department of Water Resources. The final regulation will be submitted to the Building Standards Commission for consideration.

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

The proposed amendments would not impose any new mandates on local agencies or school districts that requires state reimbursement.

FISCAL IMPACT
[Gov. Code §11346.5(a)(6), (8), §11346.5(a)(9),
title 1, §4, CCR]

The proposed amendments would not impose any direct or indirect costs or benefits to local agencies because this is not a new program and does not change any existing requirements. There is likely to be very minor fiscal benefits to the State and Local Agencies from improved understanding of the existing requirements and better reporting on the requirements. The proposed amendments:

1. Impose no new mandates on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Will not result in any nondiscretionary costs or savings to local agencies.
4. Will not result in any costs or savings in federal funding to the state.
5. 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.
6. The proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
7. The proposed regulations will not affect small business because the regulation is only being clarified. The existing requirements of the MWELO are not changing with this update.

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

The Department does not expect the amendments will have an impact on housing costs.

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

Government Code Section 11346.3(d) requires that any administrative regulation adopted on or after January 1, 1993, that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for health, safety, or welfare of the people of the state that the regulation apply to businesses. To the extent that this regulation is requiring reporting of businesses, that reporting is necessary for health, safety, or welfare of the people of the state.

The proposed MWELO amendments simplify the MWELO by reducing ambiguities, providing clarity, and improving MWELO's organization. The amendments will facilitate more consistent implementation of MWELO by making the ordinance easier to understand and follow. These regulations are updated to include new statutory requirements and will have negligible to no impacts, fiscal or otherwise.

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The proposed regulation is not expected to affect the creation or elimination of jobs, creation or elimination of businesses, and the expansion of existing businesses.

The regulations will benefit the health and welfare of California residents by contributing to water supply reliability. The regulations will also affect the state's environment by increasing water efficiency. The proposed regulations are not expected to affect worker safety.

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

The proposed amendments do not add any new material requirements. The amendments are made only to simplify and clarify the requirements of the ordinance. Because the economic impact of the new requirement and additional changes does not exceed \$50 million, a SRIA is not required.

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

None.

DEPARTMENT CONTACT PERSONS

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

Shem Stygar
Senior Water Resources Engineer
Department of Water Resources
Water Use Efficiency Branch
Email address: Shem.Stygar@water.ca.gov

Julie Saare-Edmonds
Senior Environmental Scientist
Department of Water Resources
Water Use Efficiency Branch
Email address:
Julie.Saare-Edmonds@water.ca.gov

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

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

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

After holding the hearing and considering relevant comments received in a timely manner, the Department may adopt the proposed regulation substantially as described in this notice. If the Department makes modifications that are substantially related to the originally proposed text, the Department will make the modified text — with changes clearly indicated —

available to the public for at least 15 days before the Department adopts the modified regulation. Any such modifications will also be posted on the Department web site. Please send requests for copies of any modified regulation to the attention of the contact persons provided above (“Contact Persons”). The Department will accept written comments on the modified regulation for 15 days after the date on which they were made available.

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

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

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

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulation may be found on the Department’s MWE-LO webpage: <https://water.ca.gov/Programs/Water-Use-And-Efficiency/Urban-Water-Use-Efficiency/Model-Water-Efficient-Landscape-Ordinance>.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FISH AND
WILDLIFE**

**CESA CONSISTENCY DETERMINATION
REQUEST FOR
OCEAN BREEZE RANCH
DEVELOPMENT PROJECT
2080-2023-019-05
SAN DIEGO COUNTY**

The California Department of Fish and Wildlife (CDFW) received a notice on October 31, 2023, that Ocean Breeze Ranch, LLC 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 development of approximately 328.6 acres of the 1,402.5-acre Ocean Breeze

Ranch property for residential housing and associated uses and the establishment of 832.7 acres of biological open space of which a subset will be restored and enhanced. Proposed activities will include, but are not limited to, clearing and grubbing, grading, construction activities, and restoration activities. The proposed project will occur at 5820 West Lilac Road, Bonsall, San Diego County, California.

The U.S. Fish and Wildlife Service (Service) issued a federal biological opinion (BO) (Service Ref. Number FWS–SDG–2022–0006653) in a memorandum to the U.S. Army Corps of Engineers on February 15, 2022, which considered the effects of the proposed project on state and federally endangered least Bell’s vireo (*Vireo bellii pusillus*).

Pursuant to California Fish and Game Code section 2080.1, Ocean Breeze Ranch, LLC 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, Ocean Breeze Ranch, LLC will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

DEPARTMENT OF FISH AND WILDLIFE

**CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION
NUMBER 2080–2023–016–05**

- Project:** Soil Remediation Project at 2800 and 2890 Telephone Road
- Location:** Santa Maria, Santa Barbara County
- Applicant:** Conoco Phillips
- Notifier:** Bill Borgh, Manager — Risk Management & Remediation

Background

Conoco Phillips (Applicant) proposes to complete a hydrocarbon impacted soil remediation project for the historic Cox 3–32 oil well sump and oil field lease access road (Project). The Project consists of 35.13 acres, located at 2800 and 2890 Telephone Road, Santa Maria, Santa Barbara County (Assessor Parcel Numbers 129–010–32 and 129–010–036). The Project is expected to impact 0.88 acres on those properties.

Project Activities include the excavation of approximately 1,700 cubic yards of petroleum–contaminated soils associated with the former Cox 3–32 well pad location (i.e., sump) and the excavation of approximately 400 cubic yards of soil to remove the historical oil

field lease access road. Excavation of hydrocarbon–impacted material surrounding the oil well sump is proposed to extend to a maximum depth of approximately 12 feet below ground surface (bgs) within an approximately 27,500 square–foot work area, surrounded by a temporary chain link fence. The oilfield lease road will be removed to an approximate depth of 12 inches bgs. Hydrocarbon–impacted soil will be excavated, loaded into dump trucks, and transported off–site to a California Licensed waste disposal facility. Hydrocarbon–impacted soil may be temporarily stockpiled onsite. Impacted soil will be replaced with clean fill in lifts and compacted. Construction equipment will access the site (APN 129–010–036) via a private driveway connecting to Telephone Road. From the driveway, a stabilized construction entrance will be constructed immediately after the oil lease road is removed. This will lead to the staging areas where soil will be stockpiled and construction equipment will remain onsite until soil disposal. To minimize dust, water may be applied.

The Project site will be restored to existing conditions by grading the area to as near original grade as possible and seeding the excavated area as needed.

Federal Permit History

In June 2022, the United States Fish and Wildlife Service (Service) approved a General Conservation Plan for Oil and Gas Activities in Santa Barbara County, California (GCP) for take of California tiger salamander (*Ambystoma californiense*) for purposes of section 10(a)(2)(A) the federal Endangered Species Act (ESA, 16 U.S.C. § 1531 et seq.). Where the Service finds certain requirements are met, the GCP provides the Service with a mechanism to permit the incidental take of California tiger salamander by private individuals engaged in oil and gas activities (defined as geophysical exploration (seismic), development, extraction, storage, transport, remediation, and/or distribution of crude oil, natural gas, and/or other petroleum products and construction, maintenance, operation, repair, and decommissioning of oil and gas pipelines and well field infrastructure).

The Applicant submitted to the Service an application for an Incidental Take Permit (ITP) for California tiger salamander for the Project, along with an Individual Project Package including a General Habitat Conservation Plan for Oil and Gas Activities for the Project (HCP). As described below, the Service issued an ITP for the Project conditioned on compliance with the Individual Project Package, including the HCP, as well as the GCP.

Anticipated Take of California Tiger Salamander

The Project site is within the California tiger salamander East Santa Maria Santa Barbara County Distinct Population Segment metapopulation identified in the GCP and the Project activities described above

are expected to impact upland habitat located within the scientifically accepted California tiger salamander dispersal distance of 1.3 miles from breeding ponds. California tiger salamander is designated as an endangered species pursuant to the ESA and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(3)(G).)

The Project site contains suitable upland California tiger salamander habitat and is within the scientifically accepted California tiger salamander upland dispersal distance of 1.3 miles from a breeding pond. There is one known California tiger salamander breeding site located approximately 0.65 miles southwest of the Project site (Santa Maria (SAMA)–1). There are four additional ponds classified as potential breeding sites: SAMA–16, which is 0.92 miles from the Project site; SAMA–18, which is 1.01 miles from the Project site; SAMA–19, which is 0.79 miles from the Project site; and SAMA–22, which is 0.74 miles from the Project site.

Due to the Project site’s proximity to the nearest documented California tiger salamander breeding ponds, dispersal patterns of California tiger salamander, and the presence of suitable upland California tiger salamander habitat within the Project site, the Service determined that California tiger salamander is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of California tiger salamander. According to the Service, California tiger salamander may be incidentally taken¹ as a result of grading, crushing, burrow abandonment, burying, and entrapment. In addition, the Project will result in the temporary loss of 0.4 acres of upland California tiger salamander habitat.

Because the Project is expected to result in take of a species designated as endangered under the ESA, the Applicant obtained an ITP from the Service (ESPER4671392) authorizing the Applicant under federal law to incidentally take California tiger salamander for a period of two years commencing on September 22, 2023. The authorization granted by the ITP is subject to compliance with, and implementation of, the GCP. In addition, all take authorized by the ITP must be incidental to otherwise lawful activities associated with the Project activities described in the Individual Project Package, including the HCP. During its 2–year duration, the ITP authorizes the incidental take of: 2 adult California tiger salamander individuals killed or

wounded during Project activities; and 15 adult or juvenile California tiger salamander taken in the form of capture and relocation.

On October 4, 2023, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITP, along with its accompanying HCP and GCP, is consistent with CESA for purposes of the Project and California tiger salamander. (Cal. Reg. Notice Register 2023, Number 42–Z, p. 1364.)

Determination

CDFW has determined that the ITP, along with its accompanying HCP and GCP, is consistent with CESA as to the Project and California tiger salamander because the mitigation measures contained in the ITP and its accompanying HCP and GCP meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA–listed species. Specifically, CDFW finds that: (1) take of California tiger salamander will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the ITP and its accompanying HCP and GCP will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of California tiger salamander. The mitigation measures in the ITP and its accompanying HCP and GCP include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- 1) At least 15 days prior to ground–disturbing activities, the Applicant will submit the names and credentials of biologists and monitors to the Service for approval to conduct the minimization measures outlined below. Excluding an emergency activity, no Project activities will begin until the Applicant has received notice from the Service that the biologists and monitors are approved to do the work. **Although not a condition of the ITP, CDFW requests the Applicant provide CDFW with the names and credentials of the Service–approved biologists and monitors prior to conducting the minimization measures outlined below.**
- 2) During the Project planning phase, the Applicant will site all impacts away from known and potential California tiger salamander breeding habitat and avoid high quality upland and dispersal habitat to the maximum extent feasible.
- 3) A Service–approved biologist will conduct a biological resources training program for all con-

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

- struction workers and their contractors to minimize potential impacts to California tiger salamander and sensitive habitats. Training will occur prior to initial construction activities and be repeated annually and as needed for new workers for the duration of each project covered by the permit. The training program will be reviewed and approved by the Service and will include a description of: (a) important biological resources within the Project site, specifically California tiger salamander, that have potential to occur within or adjacent to work areas; (b) the applicable avoidance and minimization measures; (c) the roles and responsibilities of personnel; and (d) communication protocols if California tiger salamander is detected.
- 4) A Service–approved biologist will periodically review and monitor construction and restoration efforts and will be responsible for ensuring that conditions of approval are being enforced and that success criteria are being met. Except for emergency situations, a Service–approved biologist will have the authority to temporarily halt activities if permit requirements and conditions are not being met.
 - 5) Prior to construction activities, all grading limits and construction boundaries, including staging areas, parking, and stockpile areas, will be delineated and clearly marked in the field. All California tiger salamander habitat located within 10 feet of construction activities will be delineated with specific sensitive species labeling (e.g., permanent signage stating “No Entry — Sensitive Habitat”). A Service–approved biologist(s) will work with the Service to identify these areas.
 - 6) All proposed linear routes (i.e., roads and pipelines) will be reviewed and modified, if necessary, in the field to minimize impacts to California tiger salamander with assistance by the onsite biologist or environmental monitor.
 - 7) Personnel will limit their vehicle use to existing routes of travel. Travelling off designated roads will be prohibited unless access is determined critical for a particular activity and the route has been flagged to avoid or minimize adverse effects.
 - 8) To minimize the potential for road mortality of California tiger salamander within its habitat, nighttime traffic will be minimized during the construction phase to the extent feasible; all hauling activities within habitat for California tiger salamander will be restricted to daylight hours, defined as the hours after sunrise and before sunset.
 - 9) Except in areas with posted speed limits greater than 10 miles–per–hour, Project–related vehicle speeds will not exceed 10 miles–per–hour when driving within California tiger salamander habitat.
 - 10) Prior to moving vehicles or equipment, personnel will look under the vehicles or equipment for the presence of California tiger salamanders. If a California tiger salamander or any other wildlife species is observed, the vehicle will not be moved until the animal has vacated the area on its own accord or has been relocated out of harm’s way in accordance with Measure 12.
 - 11) A Service–approved biologist will conduct pre–construction surveys of California tiger salamander habitat within Project disturbance boundaries immediately prior to the onset of any ground disturbance associated with the Project to determine if any California tiger salamander individuals are present, and to refine the final habitat mitigation acreages. The Service–approved biologist will monitor construction activities in the vicinity of habitats to be avoided. Upon completion of initial ground disturbance, the biologist or monitor will periodically (minimum twice per week) visit the Project site throughout the construction period to ensure that impacts to the Project site are in compliance with the permit. After periods of rain, a Service–approved biologist will conduct daily pre–activity surveys to ensure no California tiger salamanders have migrated into the work area prior to ground disturbing activities resuming. No construction work will be initiated until a Service–approved biologist determines that the work area is clear of California tiger salamanders. Should any California tiger salamanders be observed within harm’s way, the animal will be allowed to vacate the area on its own accord or be relocated in accordance with Measure 12.
 - 12) Any California tiger salamander or individual of other wildlife species will be allowed to vacate the Project areas on its own accord under the observation of a Service–approved biologist. If any California tiger salamander or individual of other wildlife species does not relocate on its own, or it is in harm’s way, it will be relocated out of harm’s way to nearby suitable habitat, similar to that in which it was found, and outside the Project area. Only a Service–approved biologist will relocate California tiger salamanders. The biologists conducting relocation activities will follow the Declining Amphibian Task Force Fieldwork Code of Practice. A Service–approved biologist will relocate any California tiger salamanders found within the Project footprint to an active rodent burrow system located no more than 300 feet outside

- of the Project area unless otherwise approved by CDFW and the Service. The individuals will be handled with clean and wet hands. During relocation they will be placed in a clean, covered plastic container with a wet non-cellulose sponge. A Service-approved biologist will monitor relocated California tiger salamanders until they enter a burrow and are concealed underground or otherwise deemed safe in the relocation area by the biologist. Relocation areas will be identified by the Service-approved biologist based on the best suitable habitat available. The Service-approved biologist will document both the capture site and the relocation site by photographs and GPS positions. The California tiger salamander will be photographed and measured (snout-vent) for identification purposes prior to relocation. All documentation will be provided to the Service within 24 hours of relocation. **Although not a condition of the ITP, CDFW requests the Applicant provide CDFW with the same documentation within 24 hours of relocation.**
- 13) Rodent burrows within the Project areas that overlap California tiger salamander habitat will be excavated by a Service-approved biologist using hand tools until it is certain that the burrows are unoccupied. In lieu of burrow excavation, steel plates or plywood may also be utilized to protect small mammal burrows from ground disturbance. Plates and plywood will be removed nightly and will be removed if work is scheduled to cease for consecutive days. Any individual California tiger salamanders encountered will be allowed to vacate the area on their own accord or be relocated out of harm's way in accordance with Measure 12.
 - 14) Exclusionary silt fencing (or other suitable fence material) will be installed at the discretion of a Service-approved biologist to minimize the potential for California tiger salamanders to enter the worksite. Exclusionary fencing will be maintained for the duration of the Project. If an individual California tiger salamander or other wildlife species is observed within an enclosed worksite, a portion of the fencing will be removed to allow the individual to vacate the area on its own. Alternatively, the animal may be relocated out of harm's way in accordance with Measure 12.
 - 15) All construction and sediment control fencing will be inspected each workday during construction activities to ensure they are functioning properly.
 - 16) Steep-walled excavations (e.g., trenches) that may act as pitfall traps will be inspected for wildlife at least once per day and immediately before backfilling. In lieu of daily inspections (weekends, etc.), exclusionary fencing, covers, ramps, or similar measures will be taken to prevent wildlife entrapment.
 - 17) Open pipe segments will be capped or sealed with tape (or equivalent material) nightly, or otherwise stored at least three feet above ground. Should a pipe segment become occupied by a California tiger salamander or any other wildlife species, the animal will be allowed to vacate the pipe on its own or will be removed and relocated in accordance with Measure 12.
 - 18) If Project activities must occur during the rainy season, the Applicant will not work during rain events, 48 hours prior to significant rain events (>0.5 inch), or during the 48 hours after these events, to the extent practicable. If work must occur 48 hours prior to significant rain events (> 0.5 inch), or during the 48 hours after these events, a Service-approved biologist will conduct a pre-activity survey to ensure that the work area is clear (refer to Measure 10 above).
 - 19) The Applicant will ensure that all staging areas, equipment storage areas, stockpile sites, and refueling areas are located at least 100 feet from surface water bodies and wetland habitats to minimize the potential for releases into surface water or wetland habitat. In lieu of the 100-foot buffer, secondary containment measures may be employed to prevent contamination of soil and water.
 - 20) The Applicant will prepare an Emergency Response Action Plan that addresses protection of sensitive biological resources and revegetation of any areas disturbed during an oil spill or cleanup activities. The Emergency Response Action Plan will, at a minimum, include specific measures to avoid impacts to native vegetation and wildlife habitats, plant and animal species, and environmentally sensitive habitat areas during response and cleanup operations. These measures will include integration of a Service-approved biologist on the initial response team to assist with avoidance of sensitive resources and to quantify impacts resulting from control, cleanup, and maintenance. Where feasible, low-impact, site-specific techniques such as hand-cutting contaminated vegetation and using low-pressure water flushing will be specified to remove spilled material from particularly sensitive wildlife habitats, such as riparian woodlands, because procedures such as shoveling, bulldozing, and raking can cause more

damage to a sensitive habitat than the oil spill itself. The Emergency Response Action Plan will evaluate the non-cleanup option for ecologically vulnerable habitats as identified by the Applicant. When habitat disturbance cannot be avoided, the Emergency Response Action Plan will provide stipulations for development and implementation of site-specific habitat restoration plans and other site-specific and species-specific measures appropriate for mitigating impacts to local populations of special-status plant and wildlife species and to restore native plant and animal communities to pre-spill conditions. Access and egress points, staging areas, and material stockpile areas that avoid sensitive habitat areas will be identified. The Emergency Response Action Plan will include species- and site-specific procedures for collection, transportation and treatment of oiled wildlife, particularly for sensitive species. The Emergency Response Action Plan will include procedures for timely re-establishment of vegetation that replicates the habitats disturbed (or, in the case of disturbed habitats dominated by non-native species, replaces them with suitable native species).

- 21) When working in areas with a predominance of native plants, the upper layer of topsoil material (6 inches) will be segregated during excavations to preserve the seed bank. The preserved topsoil will be covered to protect it from erosion and invasion of non-native plants until completion of the activity, when the topsoil will be replaced in the affected area. Existing access roads are not subject to this measure.
- 22) Disturbed areas will be restored and stabilized to reflect pre-existing contours and gradients to the extent practicable. Erosion and sediment controls (e.g., silt fences, fiber rolls, sandbags) will be installed, where necessary, utilizing weed-free materials in areas with a predominance of native plants. Where necessary, restored areas will be maintained and monitored, including weed removal (focused on noxious weeds and excluding non-native annual grasses). All planting and seeding will occur the first year after construction is complete, after the first significant rain event of the year (i.e., >0.25 inch of precipitation).
- 23) Upon locating California tiger salamander individuals that may be dead or injured as a result of Project-related activities, notification will be made within 72 hours to the Service Ventura Field Office at (805) 644-1766. Notification of dead or injured California tiger salamander will also be made to CDFW at (562) 342-7100.

Mitigation

To mitigate for impacts to California tiger salamander, the Applicant purchased one California tiger salamander credit from the Service and CDFW-approved La Purisima Conservation Bank located in Santa Barbara County, California. The bill of sale, dated 9/26/2023, was provided by the Applicant to CDFW. One credit fully mitigates temporary impacts to 0.4 acres of upland California tiger salamander habitat, in addition to a 60% correction factor to account for impacts within the East Santa Maria California tiger salamander metapopulation and the distance between the Project site and the conservation bank.

Monitoring and Reporting Measures

The Applicant will monitor the efficacy of the avoidance, minimization and mitigation measures and will quantify the actual extent of Project impacts in annual reports to the Service. The annual report is due by 9/30/2024 and the final report is due by 10/31/2025. **Although not a condition of the ITP, CDFW requests a copy of both the annual monitoring report due on 9/30/2024 and the final report due on 10/31/2025.**

Conclusion

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of California tiger salamander, provided the Applicant implements the Project as described in the ITP and accompanying HCP and GCP, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the ITP and the accompanying HCP and GCP. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the ITP or its accompanying HCP, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & G. Code, §§ 2080.1, 2081, subdivisions (b) and (c).)

CDFW's determination that the Service ITP, HCP, and GCP (as applied to the Project) are consistent with CESA is limited to California tiger salamander.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

CHEMICALS LISTED EFFECTIVE
NOVEMBER 17, 2023

AS KNOWN TO THE STATE OF
CALIFORNIA TO CAUSE CANCER:
COAL-TAR PITCH, FLUORO-
EDENITE FIBROUS AMPHIBOLE, AND
SILICON CARBIDE WHISKERS

Effective November 17, 2023, the Office of Environmental Health Hazard Assessment (OEHHA) is adding coal-tar pitch, fluoro-edenite fibrous amphibole, and silicon carbide whiskers to the list of chemicals known to the State of California to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986, sections 25249.5 et seq. of the Health and Safety Code, otherwise known as Proposition 65. The listing of these chemicals is pursuant to the “Labor Code” listing mechanism (Health and Safety Code, section 25249.8(a); Cal. Code of Regs., title 27, section 25904).

The basis for the listings was described in a *public notice* published in the September 22, 2023 issue of the California Regulatory Notice Register (Register 2023, Number 38-Z). The title of the notice is “Notice of Intent to List Chemicals by the Labor Code Mechanism: Coal-Tar Pitch, Fluoro-Edenite Fibrous Amphibole, and Silicon Carbide Whiskers.” The publication of the notice initiated a public comment period (September 22, 2023 – October 23, 2023). No comments were received during the comment period.

A complete, updated Proposition 65 chemical list is available on the OEHHA website.

**SUMMARY OF
REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916)

653-7715. Please have the agency name and the date filed (see below) when making a request.

California Horse Racing Board
File # 2023-0927-02
Prohibited Veterinary Practices

This certificate of compliance makes permanent emergency regulations expressly allowing possession and use of a compounded medication on the premises of a facility under the jurisdiction of the California Horse Racing Board if the medication meets specified regulatory criteria.

Title 04
Amend: 1867
Filed 11/08/2023
Effective 11/08/2023
Agency Contact:
Nicole Lopes-Gravely (916) 263-6397

State Water Resources Control Board
File # 2023-1102-01
Fiscal Year 2023-24 Water Rights Fees

This emergency action by the State Water Resources Control Board adjusts the water rights fee schedule for Fiscal Year 2023-24 to increase annual water right application, permit, and license fees to conform to amounts appropriated by the Legislature from the Water Rights Fund. The action adjusts the caps on the application and underground storage streamlined permitting process fees based on the California consumer price index. For Sustainable Groundwater Management Act work, the action also: expands the definition of “qualified individual” for purposes of determining who may calibrate a meter used to measure groundwater extractions in determining fees, adds additional criteria for meters, and expands who may be eligible for a fee waiver.

Title 23
Amend: 1030, 1042, 1044, 1062, 1063, 1064, 1066
Filed 11/08/2023
Effective 11/08/2023
Agency Contact: Sarah Fong (916) 341-5129

Department of Resources Recycling and Recovery
File # 2023-0927-03
Conflict-of-Interest Code

This conflict-of-interest code filing by the Department of Resources Recycling and Recovery (CalRecycle) has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing only.

Title 14
 Amend: 18419
 Filed 11/08/2023
 Effective 12/08/2023
 Agency Contact: Kris Chisholm (916) 322–2404

Division of Workers’ Compensation
 File # 2023–0925–01
 Medical Treatment Utilization Schedule (MTUS)

This file and print action by the Division of Workers’ Compensation (Division) of the Department of Industrial Relations amends two sections in title 8 of the California Code of Regulations to make evidence–based updates to the Medical Treatment Utilization Schedule (MTUS) pursuant to Labor Code section 5307.27. The updates relate to the Hand, Wrist, and Forearm Disorder Guideline.

Title 08
 Amend: 9792.23.4, 9792.24.7
 Filed 11/02/2023
 Effective 11/10/2023
 Agency Contact:
 Nicole L. Richardson (510) 286–0656

Department of Fish and Wildlife
 File # 2023–0925–02
 Fees for Lake and Streambed Alteration Agreements

As changes without regulatory effect, the Department of Fish and Wildlife is amending fees for lake and streambed alteration agreements. Annual changes to the fees are required by Fish and Game Code section 1609 by applying the index to determine an increase or decrease in the fees as specified in Fish and Game Code section 713. The amended fees will become effective on January 1, 2024.

Title 14
 Amend: 699.5
 Filed 11/01/2023
 Effective 01/01/2024
 Agency Contact: Juan Torres (916) 247–0327

Department of Food and Agriculture
 File # 2023–1018–01
 Noxious Weed Species

This action without regulatory effect amends the names of several species of noxious weeds in section 4500 of the Title 3 of the California Code of Regulations to correct spelling and italicization errors, to provide one additional, alternative scientific name for one species, and to correct the scientific name of another.

Title 03
 Amend: 4500
 Filed 11/06/2023
 Agency Contact: Rachel Avila (916) 698–2947

Public Employment Relations Board
 File # 2023–1030–02
 Change From Gendered to Non Gendered Language

This action without regulatory effect replaces gendered pronouns with nonbinary pronouns throughout the Public Employment Relations Board’s regulations.

Title 08
 Amend: 32140, 32155, 32206, 32738, 33009, 61150, 81150, 91150, 93030, 93045
 Filed 11/06/2023
 Agency Contact: Joshua Golka (916) 297–3152

Department of Health Care Access and Information
 File # 2023–0920–03
 Hospital Financial Assistance and Bill Complaints

This action implements regulations that codify the Department of Health Care Access and Information’s new processes for collection and review of hospital fair pricing policies and applications, receipt and review of patient complaints, assessment of penalties, and the hospital appeal process. The regulations further implement the goals of Assembly Bill 1020 (Ch. 473, Stats. 2021) by clarifying requirements related to accessibility, patient eligibility, patient notice, and hospital oversight.

Title 22
 Adopt: 96051, 96051.1, 96051.2, 96051.3, 96051.4, 96051.5, 96051.6, 96051.7, 96051.8, 96051.9, 96051.10, 96051.11, 96051.12, 96051.13, 96051.14, 96051.15, 96051.16, 96051.17, 96051.18, 96051.19, 96051.20, 96051.21, 96051.22, 96051.23, 96051.24, 96051.25, 96051.26, 96051.27, 96051.28, 96051.29, 96051.30, 96051.31, 96051.32, 96051.33, 96051.34, 96051.35, 96051.36, 96051.37
 Repeal: 96040, 96041, 96042, 96043, 96044, 96045, 96046, 96050
 Filed 11/01/2023
 Effective 01/01/2024
 Agency Contact:
 Melissa Ferkovich (279) 220–2079

Department of Motor Vehicles
 File # 2023–0928–01
 Driving Tests: Interior Audio/Video Recordings

In this rulemaking action, the Department prohibits the use of audio or video recording device to record the vehicle’s interior during all driving tests.

Title 13
Adopt: 20.02
Filed 11/07/2023
Effective 01/01/2024
Agency Contact: Randi Calkins (916) 282-7294

Department of Resources Recycling and Recovery
File # 2023-0922-03
AB 793 Reporting and Compliance Regulations

In this regular rulemaking, the Department of Resources Recycling and Recovery (“CalRecycle”) is adopting and amending regulations regarding reporting and compliance requirements for beverage manufacturers, plastic material reclaimers, and manufacturers of postconsumer recycled plastic. Additionally, the proposed changes affect the following: (1) recordkeeping requirements; (2) the process to petition CalRecycle to adjust the minimum postconsumer recycled content percentage; (3) the process to submit a corrective action plan; and (4) the process to request a reduction in administrative penalties.

Title 14
Adopt: 2250, 2255, 2260, 2280, 2285, 2290, 2295
Amend: 2000, 2100, 2235, 2240
Filed 11/02/2023
Effective 01/01/2024
Agency Contact: Kris Chisholm (916) 322-2404

Franchise Tax Board
File # 2023-0922-02
Alternative Apportionment Method

This action establishes requirements and deadlines for filing petitions to the Franchise Tax Board itself regarding alternative apportionment methods, and it defines the procedures and the ex-parte communication rule for briefs and hearings on those petitions.

Title 18
Amend: 25137
Filed 11/03/2023
Effective 11/03/2023
Agency Contact: Jay Gottman (916) 845-4576

**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.