



# California Regulatory Notice Register

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

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

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

**CONFLICT-OF-INTEREST CODE**

**AMENDMENT**

STATE AGENCY: Delta Protection Commission

A written comment period has been established commencing on November 24, 2023 and closing on January 8, 2024. 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 8, 2024. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

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

**EFFECT ON HOUSING COSTS AND BUSINESSES**

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

**AUTHORITY**

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

**REFERENCE**

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

**CONTACT**

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

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

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

**TITLE 4. POLLUTION CONTROL  
FINANCING AUTHORITY**

The California Pollution Control Financing Authority (“CPCFA” or the “Authority”) proposes to amend Section 8078 of Title 4 of the California Code of Regulations (the “Proposed Regulations”) concerning the administration of the California Pollution Control Financing Authority’s California Capital Access Loan Program (“CalCAP”) for the Collateral Support Program (“CalCAP/CSP”). These Proposed Regulations are necessary to ensure program clarity and continuity, and to refine and clarify program features of the California Pollution Control Financing Authority Act (the “Act”). The Proposed Regulations have been approved by the Office of Administrative Law (“OAL”) on an emergency basis, and this proposed rulemaking would make these changes permanent.

**AUTHORITY AND REFERENCE**

*Authority: Sections, 44520(a), 44520(b) and 44559.5(f), Health and Safety Code.*

*Reference: Sections 44559–44559.9, Health and Safety Code.*

*Reference: Section 12 U.S. Code § 5703(b)(4).*

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

Existing law establishes the Capital Access Program (“CalCAP”) and authorizes the Authority to contract with specified financial institutions to make loans to eligible small businesses that may have difficulty obtaining capital. (Health and Safety Code, § 44559)

The proposed amendments to the CalCAP Collateral Support Program regulations will revise and update the definitions in order to accelerate the State Small Business Credit Initiative (SSBCI) funding to Participating Financial Lenders. The proposed amendments to the regulations will amend Program eligibility and guidelines to increase lender engagement and participation. The amended regulations provide additional incentives, within U.S. Treasury and SSBCI Program guidelines, which encourage lenders to enroll more loans into the Collateral Support Program.

The Authority has performed a search of existing regulations and has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

**§ 8078.29. Definitions.**

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

*Section 8078.29(a).* Amends the term “Annual Fee” to extend the term of lines of credit from 48 months to 60 months.

*Section 8078.29(b).* Removes the term “Annual Recapture.”

*Section 8078.29(k).* Removes the term “Green & Manufacturing Loans.”

*Section 8078.29(n).* Amends and reduces the minimum “Principal Loan Amount” from \$50,000 to \$25,000.

*Section 8078.29(r)(i), (ii), (iii), (iv).* Adds the definition of “Socially and Economically Disadvantaged Individuals (SEDI) Contribution,” and eligibility requirements that are required by U.S. Treasury in order to provide additional support for Borrowers that qualify.

*Section 8078.29(s).* Amends and increases “Term of Support” from 48 months to 60 months.

*Necessity.* In consultation with Participating Financial Institutions, it was determined that these changes will encourage more loan enrollments and incentivize Participating Financial Institutions, thus accelerating funding to Participating Financial Institutions.

**§ 8078.31. Loan Enrollment.**

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

*Section 8078.31(a)(1)(A) and (B).* Removes A Green & Manufacturing Loan or a Small Business Loan as a requirement of a Qualified Loan to streamline the eligibility criteria for an eligible loan.

*Section 8078.31(a)(2).* Amends and increases the maximum term of support from 48 months to 60 months.

*Section 8078.31(b)(4)(C).* Amends the initial approval to include confirmation of the total amount of Collateral Support to include provisions for Borrowers who are in a Severely Affected Community or Socially and Economically Disadvantaged Individuals.

*Section 8078.31(d).* Amends how Collateral support will be determined to streamline support calculations for eligible loans.

*Section 8078.31(d)(1)(2).* Removes loan amount requirements for Green & Manufacturing Loans to streamline the eligibility criteria for an eligible loan and removes maximum contribution amounts.

*Section 8078.31(A) and (B).* Removes tiered loan amount requirements to streamline the eligibility of all small business loans.

*Section 8078.31(d)(2).* Amends and increases the term of support for all loans from 4 years to 5 years.

*Section 8078.31(d)(3).* Amends criteria for increased contribution by including Socially and Economically Disadvantaged Qualified Businesses.

*Sections 8078.31(e) and (e)(1) and (2).* Amends how Closing Fees are calculated for the additional term of

support exclusive of Severely Affected Community or Socially and Economically Disadvantaged Individual incentives.

*Section 8078.31(e)(2)(E).* Adds fee criteria for increased Term of Support for loans with a term greater than 48 months but does not exceed 60 months.

*Section 8078.31(e)(3).* Amends and increases support for lines of credit from 48 months to 60 months.

Necessity. In consultation with Participating Financial Institutions, it was determined that these changes will encourage more loan enrollments and incentivize Participating Financial Institutions, thus accelerating funding to Participating Financial Institutions.

**§ 8078.32. Loss Reserve Accounts.**

*Sections 8078.32(b)–(c).* Amends and removes elements for Annual Recapture.

**§ 8078.33. Claim for Reimbursement**

*Sections 8078.33(a) and (c).* Removes Annual Recapture element from loan defaults.

Necessity. In consultation with Participating Financial Institutions, it was determined that these changes will encourage more loan enrollments and incentivize Participating Financial Institutions, thus accelerating funding to Participating Financial Institutions.

DISCLOSURE REGARDING THE  
PROPOSED ACTION

The Authority has made the following determinations regarding the effect of the Proposed Regulations:

**Mandate on local agencies or school districts:** None.

**Cost or savings to any state agency:** None.

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

**Other non–discretionary cost or savings imposed on local agencies:** None.

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

**Significant effect on housing costs:** None.

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

**Small Business:** The proposed regulations will not have an effect on small business because the program is voluntary for any small business that seeks to apply for financial assistance in any of the CalCAP Programs.

**Significant, statewide, adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states:** The Authority has made an initial

determination 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.

RESULTS OF THE ECONOMIC  
IMPACT ANALYSIS

**Assessment regarding effect on jobs/businesses:**

The proposed regulations will not have a significant effect on the creation or elimination of jobs in California, significantly affect the creation of new businesses or elimination of existing businesses within California, or significantly affect the expansion of businesses currently doing business in California.

**Benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment:** The broad objective of the regulations is to provide sustainable access to capital for small businesses that have difficulty obtaining financing. The proposed regulations are not expected to affect worker safety or the state’s environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13) the Authority must determine that no reasonable alternative to the proposed regulations considered by the Authority or that has otherwise been identified and brought to the attention of the Authority would be more effective in carrying out the purpose for which the proposed regulations are 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 Authority invites interested parties to present statements with respect to alternatives to the Proposed Regulations during the written comment period.

AGENCY CONTACT PERSON

Written comments, inquiries, and any questions regarding the substance of the Proposed Regulations must be submitted or directed to:

Lauren Dominguez, SSBCI Program Manager  
California Pollution Control Financing Authority  
P.O. Box 942809  
Sacramento, CA 94209–0001  
Telephone: (916) 653–9249  
Fax: (916) 589–2805  
Email: [Lauren.Dominguez@treasurer.ca.gov](mailto:Lauren.Dominguez@treasurer.ca.gov)

Kamika McGill, Associate Treasury Program  
Officer  
California Pollution Control Financing Authority  
P.O. Box 942809  
Sacramento, CA 94209-0001  
Telephone: (916) 653-0289  
Fax: (916) 589-2805  
Email: [Kamika.McGill@treasurer.ca.gov](mailto:Kamika.McGill@treasurer.ca.gov)

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Proposed Regulations to the Authority. The written comment period on the Proposed Regulations ends at **5:00 p.m. (PT) on January 9, 2024**. All comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time and day in order to be considered by the Authority.

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 901 P Street, Third Floor, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the California Regulatory Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons and the proposed text of the Proposed Regulations. Copies of these items and all the information upon which the proposed rulemaking is based are available upon request from the Agency Contact Person designated in this Notice or at the Authority's website located at <http://www.treasurer.ca.gov/cpcfai/index.asp>.

#### PUBLIC HEARING

CPCFA does not intend to conduct a Public Hearing on the matter of these regulations, unless requested. Any interested person may submit a written request for a public hearing no later than 15 days prior to the close of the written comment period.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period ends and following a public hearing, if any is requested pursuant to Section 11346.8 of the Government Code, the Authority may adopt the Proposed Regulations substantially as described in this Notice, without further notice. If

the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least fifteen (15) calendar days before the Authority adopts the proposed regulations, as modified. Inquiries about and requests for copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice. The Authority will accept written comments on the modified regulations for fifteen (15) calendar days after the date on which they are made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, a copy of the Final Statement of Reasons may be requested from the Agency Contact Person designated in this Notice or found on the Authority's website at <http://www.treasurer.ca.gov/cpcfai/index.asp>.

### TITLE 16. ARCHITECTS BOARD

#### DISCIPLINARY GUIDELINES

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

#### 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/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, including those sent by mail, facsimile, or email to the addresses listed under **Contact Person** in this Notice, must be received by the Board at its office not later than **by 5:00 p.m. on Tuesday, January 9, 2024**, or must be received by the Board at the hearing, should one be scheduled.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Board, upon its own motion or at the insistence of any interested party, may thereafter adopt the proposals substantially as described below or may modi-

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

*Authority and Reference:* Pursuant to the authority vested by sections 5510.1 and 5526 of the Business and Professions Code (BPC), and section 11400.20 of the Government Code (Gov. Code), and to implement, interpret or make specific sections 125.3, 125.6, 140, 141, 143.5, 480, 481, 482, 490, 496, 499, 5536, 5536.1, 5536.22, 5536.4, 5536.5, 5553, 5558, 5560, 5561.5, 5565, 5577, 5578, 5579, 5580, 5582, 5582.1, 5583, 5584, 5585, 5586, 5588, and 5600.05 of the BPC, and sections 11400.20 and 11425.50 of the Gov. Code, the Board is considering changes to article 8 of division 2 of title 16 of the California Code of Regulations (CCR) as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board licenses architects and enforces the Architect Practice Act (Act) (BPC section 5500, et seq.). BPC section 5510.5 mandates that the protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. BPC section 5526 authorizes the Board, in accordance with the Administrative Procedure Act (APA) (Gov. Code section 11400 et seq.), to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Act.

The Board is responsible for discipline of architects and enforcement of Chapter 3.5 of Division 3 of the BPC that regulates the profession (Act) (BPC, §§ 5510.1, 5525). Existing regulation at 16 CCR section 154 requires the Board, in reaching a decision on a disciplinary action under the APA, to consider the Disciplinary Guidelines [Rev. 2000] (*Guidelines*), which are incorporated by reference. Deviation from the *Guidelines*, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation — for example: the presence of mitigating factors; the age of the case; evidentiary problems; and rehabilitation.

The Board has determined that, in order to better protect the public from licensees who have commit-

ted one or more violations of the BPC or the CCR, conform the *Guidelines* to recent statutory changes, and provide clarity to probationers of the terms of probation, the Board needs to revise its *Guidelines*. The current *Guidelines* contain many outdated terms and conditions of probation and, in many instances, do not reflect recent updates to statutory law and other changes that have occurred in the probationary environment since the last update in 2000. If the *Guidelines* are amended, the corresponding regulation, 16 CCR section 154, must also be amended to incorporate by reference the revised *Guidelines* as revised and approved by the Board in April 2013 and April 2014, approved by the Board on September 10–11, 2014, revised and approved in February 27, 2019, August 1, 2019, and September 8, 2023, by the Board.

*The Board is proposing the following changes:*

- *Amend Section 154 of Article 8 of Division 2 of Title 16 of the CCR*

The existing regulation references the “*Disciplinary Guidelines*” [2000]. This regulatory proposal will update that regulatory reference to reflect a new revision date of 2023 and new title content to include the words “and Model Orders.” This means that it is necessary to incorporate the updated *Guidelines* by reference due to the size of the document. The proposal would also update the authority and reference sections of the regulation to add relevant BPC and Gov. Code sections.

- *Amend the Disciplinary Guidelines that are incorporated by reference in Section 154 of Article 8 of Division 2 of Title 16 of the CCR*

The proposed amendments to the *Guidelines* are as follows:

- *Add a Cover Page to the Guidelines*

This proposal will add a cover page to provide the title “California Architects Board Disciplinary Guidelines and Model Orders (Revised 2023), and the Board’s address and contact information.

- *Update the Table of Contents to the Guidelines*

This proposal will update the Table of Contents to provide the organization of the *Guidelines*.

- *Amend the Introduction of the Guidelines*

This proposal would amend the Introduction to accurately reflect the appropriate terminology used throughout the *Guidelines*. The Introduction would also be amended to clarify that the *Guidelines* reference statutory and regulatory provisions, provide notice that all disciplinary actions will be published on the Internet, and add language

about obtaining copies of the *Guidelines* and the possible charge assessed for providing paper copies.

- *Amend the “General Considerations” Section of the Guidelines*

This proposal would amend the “General Considerations” section to add general recommendations and policy language regarding citations, proposed decisions, stipulated settlements, cost reimbursement, criteria to be considered in denying, suspending, or revoking a license, and mitigation and rehabilitation evidence.

- *Amend the “Definition of Penalties” Section of the Guidelines*

This proposal would amend the “Definition of Penalties” section to add the definition of “public reproof” as a type of penalty and provide the definition of public reproof.

- *Amend or Modify the Board’s Use of Pronouns*

This proposal would also make other syntax or clean-up changes to change “his/her” to “their” wherever used in the *Guidelines*.

- *Update the “Business and Professions Code” Section of the Guidelines*

This proposal would amend the “Business and Professions Code” section to add additional titles and minimum and maximum proposed penalties for violations of the Act, including for violations of BPC sections 5536, 5536.1, 5536.22, 5536.4, 5536.5, 5558, 5586, 5588, and 5600.05. This proposal would also amend the maximum and/or minimum penalties for the existing BPC code section violations already listed in this section to include more appropriate penalties, revise recommendations for optional terms and conditions of probation, and make grammatical and other technical clean-up changes.

- *Update the “General Provisions of Business and Professions Code” Section of the Guidelines*

This proposal would amend the “General Provisions of Business and Professions Code” section to add additional titles and minimum and maximum proposed penalties for violations of the BPC provisions that are enforced by the Board, including for violations of 140, 141, 143.5, 490, and 499. This proposal would also amend the maximum and/or minimum penalties for the violations of the other BPC sections already listed in

the *Guidelines* to include more appropriate penalties, revise recommendations for optional terms and conditions of probation, and make grammatical and other technical clean-up changes.

- *Update the “California Code of Regulations” Section of the Guidelines*

This proposal would amend the “California Code of Regulations” section to add a new title and proposed minimum and maximum penalties for violation of section 160(f) (informed consent), include the minimum and maximum penalties for violations of the other regulatory provisions and include penalties and optional conditions of probation, and make grammatical and other technical clean-up changes.

- *Make technical and non-substantive changes to the title of the “Violation of Probation” Section*

This proposal would re-number and change the formatting of this section to make it consistent with the formatting and titles of other sections of the *Guidelines*.

- *Add a Model Orders Section*

This proposal would add a Model Orders section to include model orders that the Board recommends be used for the following:

- A. licensees’ discipline (with model order language for revocation of license, revocation stayed and licensee placed on probation, public reproof, or surrender of license in lieu of revocation);
- B. petitions for reinstatement (with model order language for when the Board acts to grant petition with no restrictions on the license, grant petition and place licensee on probation, grant petition and place licensee on probation after completion of condition precedent, or deny the petition);
- C. petitions to revoke probation (with model order language for when the Board acts to revoke probation or extend probation after violations have been found);
- D. applicants (with model order language for when the Board acts to grant the application with no restrictions, grant the application and place licensee on probation, grant application and place licensee on probation after completion of conditions precedent, or deny the application); and,



- E. civil penalty (with model order language to be used only in cases applicable to the authority in BPC section 5588 and used in lieu of revocation).
- *Update the Standard Conditions of Probation*  
This proposal would add a sentence providing notice that the Board reserves discretion to waive any conditions of probation on a case-by-case basis. This proposal adds new titles and Standard Conditions with model language for use in every probationary order: “Maintain Active and Current License;” “Notification of Changes to Address and/or Telephone Number;” “License Surrender While on Probation;” and “Cost Reimbursement;” and would make revisions to compliance requirements for the following existing standard terms: “Obey All Laws;” “Submit Quarterly Reports;” and “Tolling for Out-of-State Practice, Residence or in-State Practice” conditions. This proposal also would make other minor grammatical and technical clean-up changes to existing conditions.
  - *Update the Optional Conditions of Probation*  
This proposal would create the following new titles and Optional Conditions of probation with model language that may be used as recommended in these Guidelines: “Written Examination,” “Ethics Course;” and “Fine.” This proposal also would revise the following existing optional terms and model language for: “California Supplemental Examination,” “Continuing Education Courses,” “Restitution,” “Criminal Probation Reports,” and “Notification to Clients/Cessation of Practice” conditions. Additionally, this proposal would delete the term for “Cost Reimbursement” (which is proposed to be moved to the standard conditions of probation section) license and wall certificate relinquishment and make minor changes to existing conditions including minor grammatical and technical clean-up changes to existing conditions.
  - *Delete the “Rehabilitation Criteria”*  
This proposal would remove the “Rehabilitation Criteria” section in its entirety as outdated. The summary for the Board’s current rehabilitation criteria and reference to the regulation that already covers this issue (section 110) is proposed to be added to the new “Criteria to be Considered” section of the *Guidelines*.
  - *Repeal the Quarterly Probation Report of Compliance Form; Add narrative summary to the standard condition for “Submit Quarterly Reports” condition*  
This proposal would strike the “Quarterly Probation Report of Compliance [Rev 2/2019]” form as an attachment at the end of the *Guidelines* as the information requested in the form has been added to the “Submit Quarterly Reports” condition as a narrative list, including:
    - (1) the respondent’s full legal name, telephone number, and address of record;
    - (2) the name of the firm respondent works for, respondent’s title, firm address and telephone number;
    - (3) a statement of all of respondent’s landscape architecture activities during the reporting period. The statement shall include: the client’s name, address and telephone number, project title/address, project description, project’s start and end date and a description of respondent’s involvement;
    - (4) a requirement that respondent provide a list of activities related to the practice of landscape architecture by activity and date; and,
    - (5) a requirement that respondent provide a certification under penalty of perjury that the information provided in the report is true and correct.

This proposal would allow probationers to submit the current information required by the form in alternative formats to the Board.

ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendments make the *Guidelines* consistent with current law and the current probationary environment, clarify the terms and conditions of probation to reduce the likelihood of misinterpretation, provide model orders, and strengthen consumer protection.

The Board anticipates that the updated *Guidelines* will be a more useful tool for the Board, applicants and licensees, Administrative Law Judges (ALJs), legal counsel, Board staff, and the public by providing a more accurate overview of the Board’s processes in formal disciplinary actions. The updated *Guidelines* will also serve as an educational and guidance tool for the ALJs who administer hearings for the Board. The regulatory proposal will improve the consistency of penalties for violations of the Act and its regulations.

This regulatory proposal promotes the fairness and standardization of cases requiring formal discipline by clarifying the conditions under which licensees and applicants shall be subject to varying levels of discipline and terms of probation.

#### CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

#### INCORPORATION BY REFERENCE

This proposal would incorporate by reference the document entitled “Disciplinary Guidelines” (Revised 2023). The *Guidelines* are incorporated by reference as they are too lengthy and cumbersome to be included in the CCR.

#### FISCAL IMPACT ESTIMATES

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

This proposal provides a more accurate overview of the Board’s processes in formal disciplinary actions, which will provide greater clarity to licensees, consumers, the Board, the Office of Attorney General, and ALJs by outlining relevant and transparent standards directly related to violations outlined in law.

The Board does not anticipate additional workload or costs resulting from the proposed regulations. This proposal does not change the fines for violations, so no additional revenues are anticipated.

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

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

*Local Mandate:* None.

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

*Business Impact:* The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:

The proposed regulatory action only impacts licensees and applicants who are disciplined by the Board for violations of the laws and regulations within its jurisdiction. The Board does not have the authority to take administrative action against a business. The Board currently regulates approximately 21,000 licensed architects and 11,000 applicants who are in the process of meeting examination and licensure requirements.

The proposed regulatory action only affects a negligible number of licensees and applicants who, through their conduct, subject themselves to disciplinary action for violations of the laws and regulations within the Board’s jurisdiction. Any “adverse economic impact” would only occur as the result of a disciplinary order following a formal administrative proceeding and a finding of fact affirming a violation of the laws and/or regulations within the Board’s jurisdiction. Any potential “adverse economic impact” may be avoided simply by complying with the existing laws and regulations governing the practice of architecture in California.

*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. The proposed regulations would revise existing disciplinary guidelines but would not change fine amounts. The proposed regulatory action only adversely affects a negligible number of licensees and applicants who, through their conduct, subject themselves to disciplinary action for violations of the laws and regulations within the Board’s jurisdiction. Any potential “adverse economic impact” may be avoided simply by complying with the existing laws and regulations governing the practice of architecture in California.

*Effect on Housing Costs:* None.

#### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect small businesses as it only affects licensees and applicants who are disciplined for violations of the Act and/or Board regulations. Businesses operated by licensees and applicants who are in compliance with the law will not incur any fiscal impact. 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.

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS

*Impact on Jobs/Businesses:*

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. The proposed regulatory action only impacts licensees and applicants who are disciplined by the Board for violations of the laws and regulations within its jurisdiction. The Board does not have the authority to take administrative action against a business.

The Board currently regulates approximately 21,000 licensed architects and 11,000 applicants who are in the process of meeting examination and licensure requirements. The proposed regulatory action only adversely affects a negligible number of licensees and applicants who, through their conduct, subject themselves to disciplinary action for violations of the laws and regulations within the Board’s jurisdiction. Any “adverse economic impact” would only occur as the result of a disciplinary order following a formal administrative proceeding and a finding of fact affirming a violation of the laws and/or regulations within the Board’s jurisdiction. Any potential “adverse economic impact” may be avoided simply by complying with the laws and regulations governing the practice of architecture in California.

*Benefits of Regulation:*

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

The Board has determined that updating its Disciplinary Guidelines through this regulatory proposal will benefit the health and welfare of California residents by enhancing the Board’s ability to take appropriate action against licensees and applicants who, through their conduct, subject themselves to disciplinary action by violating the Act and/or Board regulations.

Additionally, this proposal will benefit Deputy Attorneys General (DAG), ALJs, and others involved in the disciplinary process by ensuring consistency in the interpretation and application of penalties in administrative disciplinary actions.

This regulatory proposal does not affect worker safety and this proposal is not related to the State’s environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention

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

Any interested person may present statements or arguments orally if a hearing is requested or in writing relevant to the above determinations.

INITIAL STATEMENT OF  
REASONS AND INFORMATION

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

TEXT OF PROPOSAL

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

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

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

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

CONTACT PERSON

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

Name: Timothy Rodda  
Address: 2420 Del Paso Road, Suite 105  
Sacramento, CA 95834  
Telephone Number: (279) 895–1246  
Email Address: [timothy.rodde@dca.ca.gov](mailto:timothy.rodde@dca.ca.gov)

The backup contact person is:

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

*Website Access:* Materials regarding this proposal can be found at [www.cab.ca.gov](http://www.cab.ca.gov) ([https://cab.ca.gov/news/laws/proposed\\_regulation.shtml](https://cab.ca.gov/news/laws/proposed_regulation.shtml)).

## **TITLE 20. ENERGY COMMISSION**

FEDERAL AND  
ADMINISTRATIVE UPDATES  
APPLIANCE EFFICIENCY REGULATIONS  
TITLE 20, ARTICLE 4, SECTIONS 1601–1609,  
CALIFORNIA CODE OF REGULATIONS  
DOCKET NUMBER 22–AAER–04

### **INTRODUCTION**

Notice is hereby given that the California Energy Commission (CEC) proposes to amend the California Code of Regulations (CCR), Title 20, Article 4, after considering all comments, objections, and recommendations regarding the proposed action. The proposed federal and administrative updates include:

- Updates to align with current federal law.
- Updates to the data submittal requirements and processes.
- Removal of a redundant aspect of the marking requirement for commercial and industrial fans and blowers.
- Updates and streamlining to CEC’s product compliance review, enforcement, and administrative proceedings.
- Administrative and non–substantive changes for clarity and consistency.

### **PUBLIC HEARING**

A public hearing will be held on the proposed regulations at the date and time below. Interested persons or their authorized representatives may present statements, arguments, or contentions relevant to the proposed regulations at the public hearing. *The record for this hearing will be kept open until every person has had an opportunity to provide comment.*

Public Hearing  
January 9, 2024  
10:00 a.m. (Pacific Time)

The hearing will be held remotely to improve and enhance public access through teleconferencing options. Instructions for remote participation are below.

### **REMOTE ATTENDANCE**

The public hearing may be accessed by clicking the Zoom link below or visiting Zoom at <https://join.zoom.us> and entering the ID and password below. If you experience difficulties joining, you may contact Zoom at (888) 799–9666 extension 2 or the Office of the Public Advisor, Energy Equity and Tribal Affairs at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov) or (916) 654–4489 or toll–free at (800) 822–6228.

Zoom Link:

<https://energy.zoom.us/j/83096131403?pwd=SGdGYVNKck5jTy9Ya29MSGk4c3hpUT09>

Webinar ID: 830 9613 1403

Password: 815540

To participate by telephone dial (213) 338–8477 or (888) 475–4499 (toll–free). When prompted, enter the Webinar ID and password listed above. To comment or ask a question over the telephone, dial \*9 to “raise your hand” and \*6 to mute/unmute your phone line.

### **PUBLIC ADVISOR**

The CEC’s Office of the Public Advisor, Energy Equity and Tribal Affairs provides public assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, email [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), call (916) 654–4489, or toll–free (800) 822–6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance. The CEC will work diligently to accommodate requests.

Zoom: If you experience difficulties with the Zoom platform, please contact the Office of the Public Advisor, Energy Equity and Tribal Affairs via email or phone.

### **MEDIA INQUIRIES**

Direct media inquiries to the Media and Public Communications Office at (916) 654–4989 or [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov).

### **PUBLIC COMMENT PERIOD**

The public comment period for the Proposed Action will be held from **November 24, 2023, through January 8, 2024**. Any person may submit written comments to the CEC for consideration on or prior to January 8, 2024. The CEC appreciates receiving written comments as soon as possible. Comments submitted

outside this comment period are considered untimely. The CEC may, but is not required to, respond to untimely comments, including those raising significant issues.

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address if provided in a comment) will become part of the public record of this proceeding with access available via any internet search engine.

The CEC encourages the use of its electronic commenting system. Visit the e-commenting page at [https://www.energy.ca.gov/proceeding/federal-and-administrative-updates-title-20-appliance-efficiency-regulations?auHash=yF-j6t\\_nSl-xnc9TbJ4DLLvOOOf3P4TkMg8zlbN0DNs](https://www.energy.ca.gov/proceeding/federal-and-administrative-updates-title-20-appliance-efficiency-regulations?auHash=yF-j6t_nSl-xnc9TbJ4DLLvOOOf3P4TkMg8zlbN0DNs), which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the “Comment Text” box or attached as a downloadable, searchable document consistent with Title 20, CCR, Section 1208.1. The maximum file size allowed is 10 MB.

Written comments may also be emailed. Include docket number 22-AAER-04 in the subject line and email to [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

A paper copy may be sent to:

California Energy Commission  
Docket Unit  
Docket Number 22-AAER-04  
715 P Street, MS-4  
Sacramento, CA 95814

To ensure you receive notice of any changes to the proposed regulations in this proceeding, please follow the instructions provided at the end of this notice to join the proceeding email subscriber list or provide a valid email or mailing address with your comments.

#### STATUTORY AUTHORITY AND REFERENCE

Public Resources Code sections 25213, 25218(e), and 25402(a)–(c) authorize the CEC to adopt rules or regulations, as necessary, to implement, interpret, and make specific Public Resources Code section 25402(c).

#### INFORMATIVE DIGEST

##### **Summary of existing laws and regulations/Policy statement overview**

The Warren–Alquist Act establishes the CEC as California’s primary energy policy and planning agency. Sections 25213, 25218(e), and 25402(c) of the Public Resources Code mandate and/or authorize the CEC to adopt rules and regulations, as necessary, to reduce

the wasteful, uneconomic, inefficient, or unnecessary consumption of energy and water by prescribing efficiency standards and other cost-effective measure for appliances whose use requires a significant amount of energy or water statewide.

One of the ways the CEC satisfies this requirement is through the Appliance Efficiency Regulations, Title 20, sections 1601–1609, which contain definitions, test procedures, efficiency standards, enforcement provisions, and marking and certification requirements for state and federally regulated appliances. Further, the regulations require that appliance manufacturers certify to the CEC that their products meet all applicable state and Federal appliance efficiency regulations before their products can be included in the CEC’s Modernized Appliance Efficiency Database System (MAEDbS) of appliances approved to be sold or offered for sale within California. Over time, previously adopted regulations can become duplicative, out of date, or require updates to best implement the CEC’s legislative mandate. To ensure Title 20, Article 4 reflects current regulatory authority consistently, CEC proposes the following federal and administrative updates.

First, the CEC is providing updates to reflect federal appliance efficiency laws from the Department of Energy. The CEC’s Appliance Efficiency Regulations are designed to provide manufacturers, retailers, and consumers of appliances with a clear and comprehensive set of both federal and state regulations in a single location. These updates will ensure the Appliance Efficiency Regulations will reflect federal law, providing clarity and regulatory certainty to regulated parties. Also related to these changes is the removal of outdated state performance standards for boilers and furnaces. These appliances have existing federal standards that preempt state standards. As a result, those state standards are no longer in effect and can be removed from the Appliance Efficiency Regulations for clarity.

Second, the CEC is modifying the certification process and data submittal requirements for certain appliances to ensure that manufacturers can properly certify to MAEDbS that their regulated products are compliant with the most current energy performance standards and testing requirements. These modifications also help to streamline the certification process and help maintain the usability of MAEDbS.

Third, the CEC is removing the redundant text size requirement included within the labeling requirements for commercial and industrial fans and blowers. The label is already required to be legible, so the text size requirement places an unnecessary burden on manufacturers and serves no purpose.

Fourth, the CEC is updating and streamlining the CEC’s product compliance review and administrative proceedings relating to enforcement. The amend-

ments remove a redundant process that either has been superseded by the CEC’s civil penalty authority or is not required under any statute. The amendments also reflect the evolution of the CEC’s compliance program and statutory changes since the passage of Senate Bill 454 (Sen. Bill Number 454 (2011–2012 Regular Sess.), which authorized civil penalties, and the development of implementing regulations in 2015.

Finally, The CEC is proposing to make non-substantive clarification, numbering, ordering, cross-reference, and grammatical changes to effectively communicate the regulation in a precise and clear manner. None of the proposed non-substantive changes materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect.

The proposed changes will ensure that the CEC Appliance Efficiency Regulations reflect state and federal law, ensure that manufacturers can properly certify to MAEDbS that their regulated products are compliant with the most current requirements, remove outdated and redundant language, update and streamline the CEC’s product compliance review and administrative proceedings, and improve regulatory text through clarification and formatting edits. These changes provide clarity and regulatory certainty to the regulated parties.

**Difference from existing comparable federal regulations or statute**

The proposed amendments ensure that the CEC’s Appliance Efficiency Regulations accurately reflect current federal regulations for the purpose of including a complete set of both state and federal regulations addressing appliance water and energy efficiency. The CEC does not enforce the federal appliance efficiency standards, and there is therefore no duplication in the application of the federal standards and there are no conflicts between state and federal law.

**Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments**

The broad objective of this rulemaking is to provide federal alignment and administrative updates to Title 20, Article 4, CCR. This includes updates to align with current federal law, updates to the data submittal requirements and processes, removal of a redundant marking requirement for fans and blowers, updates and streamlining to CEC’s product compliance review, enforcement and administrative proceedings, and other administrative and non-substantive changes for clarity and consistency.

The benefits of the proposed regulations will be to eliminate duplicative and outdated information, enhance the clarity and regulatory certainty of the regulations for stakeholders, and streamline internal compliance review and administrative process.

**Determination of inconsistency or incompatibility with existing state regulations**

The CEC has conducted an evaluation to identify other regulations in this area and has found none. Therefore, the CEC has determined that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

**DOCUMENTS INCORPORATED BY REFERENCE**

The CEC proposes to incorporate by reference the following documents which include references to federal standards that preempt state law as set forth in 42 U.S.C. § 6297(a)–(c):

- ANSI/AMCA Standard 214–21 “*Test Procedure for Calculating Fan Energy Index (FEI) for Commercial and Industrial Fans and Blowers*” (March 1, 2021)
- ANSI/AMCA Standard 240–15 “*Laboratory Methods of Testing Positive Pressure Ventilators for Aerodynamic Performance Rating*” (May 9, 2015)
- ASME A112.18.1–2018/CSA B125.1–18 “*Plumbing Supply Fittings*” (July 2018)
- 10 C.F.R. section 429.12
- 10 C.F.R. section 429.16
- 11 C.F.R. section 429.32(a)
- 10 C.F.R. section 429.69
- 10 C.F.R. section 429.70
- 10 C.F.R. section 430.23(i) (Appendix I1 to subpart B of part 430)
- 10 C.F.R. section 430.23(j) (Appendix J to subpart B of part 430)
- 10 C.F.R. section 430.23(m) (Appendix M1 to subpart B of part 430)
- 10 C.F.R. section 430.23(aa) (Appendix Y1 to subpart B of part 430)
- 10 C.F.R. section 431.92
- 10 C.F.R. section 431.154
- 10 C.F.R. section 431.174
- 10 C.F.R. section 431.174 (Appendix A to Subpart J of Part 431)

All documents are available for review at the CEC located at 715 P Street, Sacramento, California 95814

**MANDATED BY FEDERAL LAW OR REGULATIONS**

The proposed changes to the federal requirements in the Appliance Efficiency Regulations reflect current federal law. None of the proposed changes to the state-specific requirements conflict with federal law;

rather changes are proposed, such as removing state test procedures and state standards that are preempted by federal law, to ensure consistency with federal regulations and statutes.

**OTHER STATUTORY REQUIREMENTS**

None.

**LOCAL MANDATE DETERMINATION**

None.

**FISCAL IMPACTS**

The CEC has made the following initial determinations:

- Cost to any local agency or school district requiring reimbursement pursuant to Government Code Section 17500 et seq.: None.
- Cost or savings to any state agency: None.
- Non-discretionary cost or savings imposed upon local agencies: None.
- Cost or savings in federal funding to the state: None.

**SIGNIFICANT EFFECT ON HOUSING COSTS**

None.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES**

The CEC has made an initial determination that the proposed regulations will not have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed changes will ensure the Appliance Efficiency Regulations reflect current federal law, ensure that manufacturers can properly certify to MAEDbS that their regulated products are compliant with the most current requirements, remove outdated and redundant language, update and streamline the CEC’s product compliance review and administrative proceedings, and improve the regulatory text through clarification and formatting edits. These changes provide clarity and regulatory certainty to the regulated parties.

**RESULTS OF THE ECONOMIC IMPACT ANALYSIS**

The CEC concludes that: (1) the proposal will not create jobs within California, (2) the proposal will not eliminate jobs within California, (3) the proposal will not create new businesses in California, (4) the proposal will not eliminate existing businesses within California, and (5) the proposal will not result in the expansion of businesses currently doing business within the state.

**Benefit of the Proposed Action:** The benefits of the proposed regulations will be to eliminate duplicative and outdated information and enhance the clarity and regulatory certainty of the regulations.

The proposed regulations will not adversely affect the health and welfare of California residents, worker safety, or the state’s environment.

**COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

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

There are no cost impacts to a representative private person, as individuals are not required to comply with the regulations.

The proposed changes will ensure the Appliance Efficiency Regulations reflect current state and federal law, ensure that manufacturers can properly certify to MAEDbS that their regulated products are compliant with the most current requirements, remove outdated and redundant language, update and streamline the CEC’s product compliance review and administrative proceedings, and improve the regulatory text through clarification and formatting edits. These changes provide clarity and regulatory certainty to the regulated parties.

**BUSINESS REPORT**

The proposed changes to product reporting requirements for appliances subject to federal test procedures would not require additional mandatory data reporting beyond what is already required to be collected and reported to the federal government, except for televisions. For televisions within the scope of the amended federal test procedure, the proposed regulations would amend data reporting requirements on manufacturers of these products. The proposed regulations would require manufacturers to certify each model of television within the scope of the regulations to the CEC’s Modernized Appliance Efficiency Database System by submitting updated data about each television

model consistent with the amended federal test procedure. This data reporting requirement is otherwise not required by federal law, unless a manufacturer makes a representation of the energy use or energy efficiency of their product. Certifying a model with updated data would also allow customers, distributors and retailers to understand the energy consumption of these products. It is necessary for the health, safety, or welfare of the people of the state, that these regulations, which require a report, apply to businesses.

#### EFFECT ON SMALL BUSINESS

The proposed regulations will not affect small businesses.

The proposed changes will ensure the CEC's Appliance Efficiency Regulations reflect current state and federal law, ensure that manufacturers can properly certify to MAEDbS that their regulated products are compliant with the most current requirements, remove outdated and redundant language, update and streamline the CEC's product compliance review and administrative proceedings, and improve the regulatory text through clarification and formatting edits. These changes provide clarity and regulatory certainty to the regulated parties.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Energy Commission must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed; 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 Energy Commission invites interested persons to present statements or arguments concerning alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

Questions should be addressed to:

Corrine Fishman, Regulations Manager  
Efficiency Division  
[Corrine.fishman@energy.ca.gov](mailto:Corrine.fishman@energy.ca.gov)

OR

Carlos Baez  
Efficiency Division  
[Carlos.baez@energy.ca.gov](mailto:Carlos.baez@energy.ca.gov)

#### COPIES OF THE INITIAL STATEMENT OF REASONS, THE EXPRESS TERMS, AND RULEMAKING FILE

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at 715 P Street, Sacramento CA 95814 As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms, the Initial Statement of Reasons and any documents relied upon. Copies may be obtained by contacting Corrine Fishman or accessed through the CEC website at [https://www.energy.ca.gov/proceeding/federal-and-administrative-updates-title-20-appliance-efficiency-regulations?auHash=yF-j6t\\_nSI-xnc9TbJ4DLLvOOOf3P4TkMg8zlbN0DNs](https://www.energy.ca.gov/proceeding/federal-and-administrative-updates-title-20-appliance-efficiency-regulations?auHash=yF-j6t_nSI-xnc9TbJ4DLLvOOOf3P4TkMg8zlbN0DNs).

#### AVAILABILITY OF CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS

Participants should be aware that any of the proposed regulations could be changed as a result of public comment, staff recommendation, or recommendations from Commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the CEC considers changes to the proposed regulations pursuant to Government Code Section 11346.8, a full copy of the text and any additional documents relied upon will be available for review at least 15 days prior to the date on which the CEC adopts or amends the resulting regulations.

#### COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons once it has been prepared, by visiting the CEC website at [https://www.energy.ca.gov/proceeding/federal-and-administrative-updates-title-20-appliance-efficiency-regulations?auHash=yF-j6t\\_nSI-xnc9TbJ4DLLvOOOf3P4TkMg8zlbN0DNs](https://www.energy.ca.gov/proceeding/federal-and-administrative-updates-title-20-appliance-efficiency-regulations?auHash=yF-j6t_nSI-xnc9TbJ4DLLvOOOf3P4TkMg8zlbN0DNs) or contacting Corrine Fishman.



AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

The CEC maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the CEC for this rulemaking have been posted on our website at [https://www.energy.ca.gov/proceeding/federal-and-administrative-updates-title-20-appliance-efficiency-regulations?auHash=yF-j6t\\_nS1-xnc9TbJ4DLLvOOOf3P4TkMg8zlbN0DNs](https://www.energy.ca.gov/proceeding/federal-and-administrative-updates-title-20-appliance-efficiency-regulations?auHash=yF-j6t_nS1-xnc9TbJ4DLLvOOOf3P4TkMg8zlbN0DNs).

INSTRUCTIONS FOR RECEIVING  
NOTICES AND DOCUMENTS IN  
THIS PROCEEDING

To stay informed about this proceeding and receive documents and notices of upcoming workshops and hearings as they are filed, please subscribe to the proceeding email, which can be accessed here: [https://www.energy.ca.gov/proceeding/federal-and-administrative-updates-title-20-appliance-efficiency-regulations?auHash=yF-j6t\\_nS1-xnc9TbJ4DLLvOOOf3P4TkMg8zlbN0DNs](https://www.energy.ca.gov/proceeding/federal-and-administrative-updates-title-20-appliance-efficiency-regulations?auHash=yF-j6t_nS1-xnc9TbJ4DLLvOOOf3P4TkMg8zlbN0DNs). The subscription email sends out email notifications and direct links when documents and notices are filed in the proceeding docket. If you are unable or do not wish to sign up for the list serve but still would like to receive documents and notices by other means, please contact [corrine.fishman@energy.ca.gov](mailto:corrine.fishman@energy.ca.gov).

**GENERAL PUBLIC INTEREST**

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

ANNOUNCEMENT OF AVAILABILITY  
OF A DRAFT TECHNICAL SUPPORT  
DOCUMENT FOR PROPOSED HEALTH-  
PROTECTIVE CONCENTRATION FOR  
NONCANCER EFFECTS OF HEXAVALENT  
CHROMIUM IN DRINKING WATER

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is announcing the availability of a draft document describing a proposed health-protective concentration (HPC) for noncancer effects of hexavalent chromium (Cr(VI)) in drinking water, as part of the process of updating the Cr(VI) Public Health Goal (PHG). A separate document describing the derivation of the HPC for cancer effects will be released at a later date.

A PHG is the level of a drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. Cr(VI) is a known human carcinogen. For carcinogens, health-protective water concentrations are determined for both cancer and noncancer effects, and the lowest (most health-protective) value is selected as the PHG. The California Safe Drinking Water Act of 1996<sup>1</sup> requires OEHHA to develop PHGs based exclusively on public health considerations.<sup>2</sup> PHGs published by OEHHA are considered by the State Water Resources Control Board in setting drinking water regulatory standards (Maximum Contaminant Levels, or MCLs) for California.<sup>3</sup>

The draft technical support document, posted on the OEHHA website (<https://oehha.ca.gov/water>), presents the scientific information available on the non-cancer toxicity of Cr(VI), and the calculation of the proposed HPC for noncancer effects. The proposed HPC of 5 parts per billion (ppb) is based on chronic liver inflammation in female rats exposed to Cr(VI) in drinking water. As noted above, an HPC based on cancer will be released at a later date. Once cancer and noncancer HPCs have been determined, the lowest value will be selected as the PHG.

Any interested person or their authorized representative may submit public comments relevant to the proposed HPC. The public comment period for the draft document begins November 24, 2023, and ends January 8, 2024. The public is encouraged to submit written comments via OEHHA’s website, rather than in paper form. Comments may be submitted electronically through the following link: <https://oehha.ca.gov/comments>.

Hard-copy comments may be mailed or hand-delivered to the address below. Any written comments concerning the proposed HPC, regardless of the form or method of transmission, must be received by the PHG program by January 8, 2024, to be considered.

The Office will hold a hybrid public workshop/webinar on January 8, 2024, from 1:00 p.m. to 4:00 p.m. Pacific Time. Information about the workshop/webinar can be found on the OEHHA website at <https://oehha.ca.gov/water>.

Pursuant to Health and Safety Code section 57003, the workshop is provided to enable a dialogue between OEHHA scientists and the public to discuss the scientific basis of the proposed HPC, and to receive comments. After the workshop, OEHHA will submit the draft risk assessment for external scientific peer review.<sup>4</sup>

<sup>1</sup> Codified at Health and Safety Code, section 116270 *et seq.*

<sup>2</sup> Health and Safety Code, section 116365(c).

<sup>3</sup> Health and Safety Code, section 116365(a) and (b).

<sup>4</sup> Health and Safety Code section 116365(c)(3)(D).

Following the workshop, public comment period and external scientific peer review, OEHHA will evaluate all the comments received, revise the document as appropriate, and make it available for an additional 30-day public comment period. After any subsequent revisions, the final document will be posted on the OEHHA website along with responses to the external peer review comments and to comments received at the workshop and during the two public comment periods.

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address, and email may be available to third parties.

If you would like to receive further information on this announcement or have questions, please contact Hermelinda Jimenez at [PHG.Program@oehha.ca.gov](mailto:PHG.Program@oehha.ca.gov) or at (916) 324-7572. Written inquiries should be sent to:

Pesticide and Environmental Toxicology Branch  
Office of Environmental Health Hazard  
Assessment  
California Environmental Protection Agency  
P.O. Box 4010, MS-12B  
Sacramento, California 95812-4010  
Attention: PHG Program

**DEPARTMENT OF FISH AND  
WILDLIFE**

**HABITAT RESTORATION AND  
ENHANCEMENT ACT  
CONSISTENCY DETERMINATION  
NUMBER 1653-2023-129-001-R1**

**Project:** South Fork Ten Mile River Large Wood Enhancement Project

**Location:** Mendocino County

**Applicant:** Nicole Herrera, Trout Unlimited

**Background**

*Project Location:* The South Fork Ten Mile River Large Wood Enhancement Project (Project) is located on the South Fork Ten Mile River, tributary to the Ten Mile River approximately six miles northeast of Fort Bragg, California, Assessor Parcel Numbers 015-230-39, 015-210-10, 015-230-38; Latitude/Longitude 39.4972, -123.6898. The South Fork Ten Mile River supports populations of coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*O. tshawytscha*), steelhead trout (*O. mykiss*), and other fish and wildlife species.

*Project Description:* Nicole Herrera (Applicant) representing Trout Unlimited, proposes to install large

wood features in the South Fork Ten Mile River to improve habitat for juvenile and adult salmonids. The aquatic habitat within the South Fork Ten Mile River is currently simplified and has limited amounts of large wood within the stream. The Project will improve the existing habitat by installing 86 pieces of large wood, within 33 structures, throughout 2.3 miles of instream habitat. The large wood features will be constructed using both unanchored and anchored techniques. The addition of large wood in Hollow Tree Creek will promote scouring of pools and sorting of gravel, and thereby improve spawning and rearing habitat for juvenile and adult salmonids.

*Project Size:* The total area of ground disturbance associated with the Project is approximately 2.74 acres and 265 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

*Project Associated Discharge:* Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 86 pieces of large wood, (2) 5 cubic yards of soil, and (3) 55 bolts.

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

Completion date: October 31, 2025.

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

Upland work window: July 10 to December 31, depending on seasonal weather conditions, with an option for variance or extension with written approval from the Regional Water Board and CDFW.

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, the Regional Water Board issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1B23143WNME, Electronic Content Management Identification (ECM PIN) Number CW-890414 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to coho salmon, Chinook salmon, steelhead trout, and other fish, wildlife, and plant species.

Receiving Water: South Fork Ten Mile River, tributary to the Ten Mile River.

Filled or Excavated Area: Permanent area impacted: 0 acres.

Temporary area impacted: 1.45 acres.

Length permanently impacted: 0 linear feet.

Length temporarily impacted: 265 linear feet.

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

*Noticing:* On October 12, 2023, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on October 12, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z–2023–1012–04) on October 27, 2023. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

#### **Determination**

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

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

#### **Avoidance and Minimization Measures**

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Construction–period Water Quality Protection and Erosion and Sedimentation Control Measures; (2) Post–construction and Sediment Control and Water Quality Protection Requirements; (3) General Pro-

gram Conditions for Vegetation Management; and (4) General Measures to Avoid Impacts on Biological Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Additional Pages: South Fork Ten Mile River Large Wood Enhancement Project*.

#### **Monitoring and Reporting**

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant’s Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Monitoring and Reporting Plan: South Fork Ten Mile River Large Wood Enhancement Project*, Prepared by Trout Unlimited and Blencowe Watershed Management.

#### **Notice of Completion**

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

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

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

#### **Project Authorization**

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

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

**ACCEPTANCE OF  
PETITION TO REVIEW  
ALLEGED UNDERGROUND  
REGULATIONS**

**DEPARTMENT OF STATE HOSPITALS**

OFFICE OF ADMINISTRATIVE LAW

(PURSUANT TO TITLE 1,  
SECTION 270, OF THE CALIFORNIA  
CODE OF REGULATIONS)

The Office of Administrative Law has accepted for consideration a petition challenging the Department of State Hospitals' Administrative Directive Number 644, dated March 28, 2023, regarding trust office functions.

Please send your comments to:

Lindsey McNeill, Attorney III  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814  
[staff@oal.ca.gov](mailto:staff@oal.ca.gov)

You must send a copy of your comment to the petitioner and the agency contact concurrently.

Petitioner:

Cory Hoch  
Post Office Box 5003  
Coalinga, CA 93210-5003

Agency contact:

Loretta Davila  
Department of State Hospitals  
1215 O Street  
Sacramento, CA 95814

Please note the following timelines:

Publication of Petition in Notice Register:  
11/24/2023.

Deadline for Public Comments: 12/26/2023.

Deadline for Agency Response: 1/8/2024.

Deadline for Petitioner Rebuttal: 15 days after the agency provides a response to the petitioner.

Deadline for OAL Determination: 03/25/2024.

**OAL REGULATORY  
DETERMINATION**

**DEPARTMENT OF CORRECTIONS AND  
REHABILITATION**

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED  
UNDERGROUND REGULATIONS

(PURSUANT TO GOVERNMENT  
CODE SECTION 11340.5 AND TITLE 1,  
SECTIONS 270, OF THE CALIFORNIA  
CODE OF REGULATIONS)

The attachments are not being printed for practical reasons or space consideration. However, if you would like to view the attachments, please contact Margaret Molina at (916) 324-6044 or [Margaret.Molina@oal.ca.gov](mailto:Margaret.Molina@oal.ca.gov).

Date: November 7, 2023

To: Keith Avery

From: Chapter Two Compliance Unit

Subject: **2023 OAL DETERMINATION  
NUMBER 2(S)  
(CTU2023-0911-02)**

Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270, sub. (f)

Petition challenging as underground regulations Cal. Code Regs., tit. 15, sec. 3315, sub. (f)(5)(Q)1. through 3., Loss of Family Visiting (Overnight) Program, and Cal. Code Regs., tit. 15, sec. 3006, subs. (a) and (c)(20), Contraband, issued by the California Department of Corrections and Rehabilitation

On September 11, 2023, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether the loss of family visiting (overnight) program provisions promulgated by the California Department of Corrections and Rehabilitation (Department) in California Code of Regulations, title 15, section 3315, subsection (f)(5)(Q)1. through 3., and the contraband provisions

that pertain to wireless communication devices promulgated by the Department in California Code of Regulations, title 15, section 3006, subsections (a) and (c)(20), constitute underground regulations. The challenged rules are attached hereto as Exhibits A, B, and C.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600,<sup>1</sup> which should have been, but was not, adopted pursuant to the Administrative Procedure Act (APA). Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment.

If a rule meets the definition of a regulation in Government Code section 11342.600, but was not adopted under the APA, it may be an “underground regulation” as defined in California Code of Regulations, title 1, section 250:

(a)(1) “Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, **but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA** and is not subject to an express statutory exemption from adoption pursuant to the APA. [Emphasis added.]

*Section 3315(f)(5)(Q)1. through 3.*

The loss of family visiting (overnight) program provisions set forth in California Code of Regulations, title 15, section 3315, subsection (f)(5)(Q)1. through 3., read:

(f) Disposition. Upon completion of the fact-finding portion of the disciplinary hearing, the inmate may be found:

[...]

(5) The disposition may or when mandated shall include assessment of one or more of the following:

[...]

(Q) Violation of Subsection 3006(a) or 3006(c)(20) shall result in:

1. Loss of family visiting (overnight) program for one year for first offense.

2. Loss of family visiting (overnight) program for three years for second offense.

3. Loss of family visiting (overnight) program for five years for third offense.

Pursuant to Penal Code section 5058, the Department adopted section 3315, subsection (f)(5)(Q)1. through 3., in a regular rulemaking action (OAL file number 2018-1130-07S). The notice of proposed action was published in the California Regulatory Notice Register on December 29, 2017 (OAL file number Z2017-1219-03). On November 30, 2018, the Department timely submitted the rulemaking action to OAL for review. The action was reviewed and approved by OAL. The regulations were filed with the Secretary of State on January 15, 2019, and became effective the same day. Therefore, California Code of Regulations, title 15, section 3315, subsection (f)(5)(Q)1. through 3., was duly adopted pursuant to the APA. A regulation that is duly adopted pursuant to the APA is not an underground regulation.

*Section 3006(a) and (c)(20)*

The contraband provisions that pertain to wireless communication devices set forth in California Code of Regulations, title 15, section 3006, subsections (a) and (c)(20), read:

(a) Dangerous Property. Inmates shall not possess or have under their control or constructive possession any weapons, explosives, explosive making material, poisons or any destructive devices, nor shall they possess or assist in circulating any writing or voice recording which describes the making of any weapons, explosives, poisons, or destructive devices. Inmates shall not possess wireless communication devices capable of making or receiving wireless communications, except as expressly authorized by the Secretary, pursuant to subsection 3190(k)(8).

[...]

(c) Except as authorized by the institution head, inmates shall not possess or have under their control any matter which contains or concerns any of the following:

[...]

(20) Any wireless communication device accessory and component including, but not limited to, a Subscriber Identity Module (SIM) card, memory storage device, battery, wired or wireless headset, and charger, except as expressly authorized by the Secretary, pursuant to subsection 3190(k)(8).

Pursuant to Penal Code section 5058, the Department amended section 3006, subsections (a) and (c)(20), in a regular rulemaking action to adopt contraband provisions that pertain to wireless communication devices (OAL file number 2016-0713-04S). The notice of proposed action was published in the California Regulatory Notice Register on April 15, 2016 (OAL

<sup>1</sup> “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

file number Z2016-0328-03). On July 13, 2016, the Department timely submitted the rulemaking action to OAL for review. The action was reviewed and approved by OAL. The regulations were filed with the Secretary of State on August 17, 2016, and became effective the same day.

The Department subsequently amended section 3006, subsections (a) and (c)(20), through the emergency rulemaking process pursuant to Penal Code section 5058.3 (OAL file numbers 2020-0706-02EON, 2021-0408-03EON, and 2021-1129-01C), as more specifically described below.

On July 6, 2020, the Department submitted an emergency rulemaking action by operational necessity pursuant to Penal Code section 5058.3 to OAL for review (OAL file number 2020-0706-02EON). The action was reviewed and approved by OAL. The regulations were filed with the Secretary of State on August 23, 2020, and became effective the same day.

On April 8, 2021, the Department submitted a second emergency rulemaking action by operational necessity to OAL in order to readopt the underlying emergency changes previously approved in OAL file number 2020-0706-02EON (OAL file number 2021-0408-03EON). The action was reviewed and approved by OAL. The regulations were filed with the Secretary of State on April 27, 2021, and became effective on April 30, 2021.

An emergency rulemaking by operational necessity expires by operation of law unless the Department timely submits a certificate of compliance in accordance with Government Code section 11346.1, subdivision (e).

The notice of proposed action for the certificate of compliance was published in the California Regulatory Notice Register on August 28, 2020 (OAL file number Z2020-0818-05). The Department timely filed a certificate of compliance for the emergency regulations with OAL on November 29, 2021 (OAL file number 2021-1129-01C). The certificate of compliance certified that the Department complied with Government Code sections 11346.2 to 11347.3, inclusive. The action was reviewed and approved by OAL. The regulations were filed with the Secretary of State on December 20, 2021, and became effective the same day.

Therefore, California Code of Regulations, title 15, section 3006, subsections (a) and (c)(20), were duly adopted pursuant to the APA. A regulation that is duly adopted pursuant to the APA is not an underground regulation.

For the reasons discussed above, we find that the rules challenged by your petition are not underground regulations.<sup>2</sup>

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

November 7, 2023

Lindsey McNeill  
Attorney III

Copy: Jeffrey Macomber, Secretary, CDCR  
Renee Rodriguez, CDCR

**AVAILABILITY OF  
PRECEDENTIAL  
DECISIONS INDEX**

**OCCUPATIONAL SAFETY AND  
HEALTH APPEALS BOARD**

Notice is hereby given, pursuant to subdivision (c) of Section 11425.60 of the Government Code, that the California Occupational Safety and Health Appeals Board (“Board”) maintains an index of precedential decisions. The index is available to the public at: <https://www.dir.ca.gov/OSHAB/PrecedentialDecisions.html>. The index is available to the public by annual email subscription from the Board. The index and text of the precedential decisions can also be viewed by appointment at the Board’s office. For subscription or additional information, or to schedule an appointment to view precedential decisions, contact:

<sup>2</sup> The rules challenged by your petition are the proper subject of a summary disposition pursuant to California Code of Regulations, title 1, section 270. Subsection (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the challenged rule is not an underground regulation, OAL may issue a summary disposition stating that conclusion. A summary disposition may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the challenged rule is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule is contained in a California statute.  
**(B) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.**  
(C) The challenged rule is statutorily exempt from the rulemaking provisions of the APA. [Emphasis added.]

Aaron Jackson, Staff Counsel  
 California Occupational Safety and Health  
 Appeals Board  
 2520 Venture Oaks Way, Suite 300  
 Sacramento, CA 95833  
 Phone: (916) 274–5751  
 Email: [ajackson@dir.ca.gov](mailto:ajackson@dir.ca.gov)

**SUMMARY OF  
 REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE  
 SECRETARY OF STATE**

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

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–Gravelly (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 Labor Standards Enforcement  
 File # 2023–1002–03  
 Garment Worker Protections

This change without regulatory effect revises definitions and requirements in existing garment manufacturing regulations to align with underlying statutory changes enacted with the passage of Senate Bill (SB) 62 (Stats. 2021, Chapter 329) and SB 191 (Stats. 2022, Chapter 67).

Title 08  
 Amend: 13630, 13631, 13633, 13634, 13637, 13644, 13646, 13655, 13656, 13657, 13658, 13659  
 Filed 11/09/2023  
 Agency Contact: Casey Raymond (213) 576–7730

Commission on Peace Officer Standards and Training  
 File # 2023–1002–01  
 Address of Record

This rulemaking action by the Commission on Peace Officer Standards and Training adopts requirements for peace officers to provide POST with a physical address of record for purposes of receiving correspondence regarding their peace officer certification.

Title 11  
 Adopt: 1215  
 Filed 11/14/2023  
 Effective 11/14/2023  
 Agency Contact: Michelle Weiler (916) 227–4870

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

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