



# 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 codes of the following:

**CONFLICT-OF-INTEREST CODES**

**AMENDMENT**

- MULTI-COUNTY: Colton Joint Union School District  
Southern California Regional Rail Authority
- STATE AGENCY: California Department of Fair Employment and Housing

A written comment period has been established commencing on January 19, 2024 and closing on March 4, 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 codes will be submitted to the Commission’s Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed codes will be submitted to the Commission for review.

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest codes. Any written comments must be received no later than March 4, 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 these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not “costs mandated by the state” as defined in Government Code Section 17514.

**EFFECT ON HOUSING COSTS AND BUSINESSES**

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

**AUTHORITY**

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED  
CONFLICT-OF-INTEREST CODES

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

requirements of Government Code sections 11342.580 and 11346.2, subdivision (a)(1). The proposed regulations are written to be easily understood by the persons that will use them.

**TITLE 4. HORSE RACING BOARD**

ARTICLE 3. RACING ASSOCIATION  
RULE 1433, APPLICATION FOR LICENSE  
TO CONDUCT A HORSE RACING  
MEETING; RULE 1440, APPROVAL OF  
CONCESSIONAIRES; AND RULE 1440.5,  
LICENSING OF CONTRACTORS AND  
SUB-CONTRACTORS

ARTICLE 24. INTRASTATE  
SIMULCAST WAGERING  
RULE 2057, INITIAL APPLICATION  
AND APPROVAL OF A SIMULCAST  
FACILITY, AND RULE 2059, INITIAL  
APPLICATION AND APPROVAL OF A  
SIMULCAST ORGANIZATION

ARTICLE 25.5. MINISATELLITE  
WAGERING  
RULE 2066, APPLICATION FOR LICENSE  
TO OPERATE A MINISATELLITE  
WAGERING FACILITY

ARTICLE 26. ADVANCE  
DEPOSIT WAGERING  
RULE 2071, LICENSE TO CONDUCT  
ADVANCE DEPOSIT WAGERING BY  
A CALIFORNIA APPLICANT, AND  
RULE 2072, APPROVAL TO CONDUCT  
ADVANCE DEPOSIT WAGERING BY AN  
OUT-OF-STATE APPLICANT

The California Horse Racing Board (Board) proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold

a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes on **March 4, 2024**. The Board must receive all comments by that time. Submit comments to:

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

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, 19590, and 19605.25, Business and Professions Code (BPC). Reference: Sections 19410, 19410.5, 19410.7, 19420, 19433, 19440, 19460, 19463, 19480, 19481, 19481.3, 19510, 19521, 19562, 19601, 19604, 19605, 19605.1, 19605.2, 19605.25, 19605.6, 19608, 19608.1, 19608.2, and 19608.4, BPC; and Sections 15376 and 15378, Government Code (GC).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19420 provides that jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the Board. BPC section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of Horse Racing Law. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and control of horse racing and parimutuel wagering. BPC section 19590, in part, provides that the Board shall adopt rules governing, permitting, and regulating parimutuel wagering on horse races under the system known as the parimutuel method of wagering. BPC section 19605.25, in part, provides that the Board may approve an additional 15 minisatellite wagering sites in each zone.

The applications used by the various entities involved in horse racing and pari-mutuel wagering to obtain the necessary approvals and licenses issued by

the Board require updating and revision, either to incorporate regulatory provisions, better reflect the actual processes pertaining to statutory requirements, or correct technical errors and provide for clarity. Additionally, the rules governing these applications require amendment to account for the actual timelines involved in the processing of these applications, as well to implement the revised versions of these applications, which are incorporated by reference.

Therefore, the Board proposes to amend its rules governing the applications used to obtain licenses or approvals pertaining to horse racing meetings, concessionaires and contractors, simulcast facilities and organizations, minisatellite wagering facilities, and advance deposit wagering. These rules will be amended to clarify license terms and renewal processes, update and set timelines related to application processes, require the Board to act only on applications that have been deemed complete, ensure uniformity between application fees and license terms, and implement the revised versions of the applications. Meanwhile, the revised applications will incorporate existing regulatory requirements, include notices regarding application fees and license terms, and make corrections related to requested supporting documentation.

The Board proposes to amend Board Rule 1433, Application for License to Conduct a Horse Racing Meeting, to implement the latest revised versions of the Application for License to Conduct a Horse Racing Meeting, CHRB–17, and Application for License to Conduct a Horse Racing Meeting of a California Fair, CHRB–18, which are incorporated by reference. The revised applications incorporate the requirement that an association or fair provide horse ambulance services during racing and training, pursuant to subsection (b) of Board Rule 1468, Ambulance Service.

Board Rule 1440, Approval of Concessionaires, will be amended to clarify the approval term and renewal process and eliminate the reference to the *Application for License/Contractor or Sub-contractor, Application for Approval/Concessionaire*, CHRB–87. The amendment will, instead, incorporate by reference the revised form CHRB–87, retitled as *Application for Approval as a Concessionaire*.

Board Rule 1440.5, Licensing of Contractors and Sub-contractors, will be amended to clarify the license term and renewal process, extend the application review period to 30 days, set a one-year time limit for completion of an application, require the Board to approve or deny an application within 60 days of being deemed complete, and eliminate the reference to the CHRB–87 form. The amendment will, instead, incorporate by reference the new Application for License as a Contractor or Sub-contractor, CHRB–86.

Board Rule 2057, Initial Application and Approval of a Simulcast Facility, will be amended to establish

a \$500 application fee, extend the application review period to 30 days, set a one-year time limit for completion of an application, require the Board to approve or deny an application within 60 days of being deemed complete, establish a five-year license term, provide that changes to an application subsequent to approval be permitted by order of the Board or by Board approval of a written request, and require each simulcast wagering facility licensed prior to January 1, 2024, to file a new application by January 1, 2025, to renew its license. The amendment will also update the references to the Application for Authorization to Operate a Simulcast Wagering Facility, CHRB–25, and the Personal History Record, CHRB–25A, to implement the revised versions thereto.

Board Rule 2059, Initial Application and Approval of a Simulcast Organization, will be amended to extend the application review period to 30 days, set a one-year time limit for completion of an application, require the Board to approve or deny an application within 60 days of being deemed complete, and update the references to the Application for Approval to Operate a Simulcast Organization, CHRB–34, to implement the latest revision to the application.

Board Rule 2066, Application for License to Operate a Minisatellite Wagering Facility, will be amended to set a one-year time limit for completion of an application, require the Board to approve or deny an application within 60 days of being deemed complete, and update the reference to the CHRB–25A form.

Board Rule 2071, License to Conduct Advance Deposit Wagering by a California Applicant, and Board Rule 2072, Approval to Conduct Advance Deposit Wagering by an Out-of-State Applicant, will both be amended to set a one-year time limit for completion of an application and require the Board to approve or deny an application within 60 days of being deemed complete. Additionally, Board Rule 2071 will be amended to update the reference to the Application for License to Conduct Advance Deposit Wagering, CHRB–132, while Board Rule 2072 will be amended to update the reference to the Application For Approval to Conduct Advance Deposit Wagering, CHRB–133, to implement the revised versions thereto.

#### ANTICIPATED BENEFIT OF THE PROPOSED REGULATION

By establishing a \$500 application fee and instituting a five-year license term for simulcast facilities, the proposed regulatory action will provide for uniformity in the licensing of simulcast facilities and minisatellite wagering facilities, two similar types of entities, as well as cover the administrative costs associated with renewals. Moreover, the change will provide a means by which the Board may ensure the suit-

ability of an existing simulcast facility, whereby new supporting documentation reflecting circumstances that have changed over time may be examined. The proposed regulatory action will also provide for consistency within the Board's rules by standardizing a review period of 30 calendar days, setting a one-year time limit for completion of an application (related to horse racing and pari-mutuel wagering), and requiring that the Board act only on applications deemed complete. These changes will, furthermore, provide for consistency with actual review timelines after taking staff workload into consideration, provide more time for applicants to complete their applications and submit the required supporting documentation, and help reduce the undue administrative burden posed by applicants that have no intention of following through with an application to completion. Additionally, the proposed regulatory action will help provide for better understanding of the provisions that apply to an entity, as the current application used by both concessionaires and contractors—two types of entities governed by separate regulations—will be split into two separate applications, and an erroneous regulatory reference will be corrected in the application used by out-of-state advance deposit wagering providers. Finally, the proposed regulatory action will promote the health and welfare of racehorses by helping to ensure that these horses receive necessary care in the event of an emergency.

#### CONSISTENCY EVALUATION

Evaluation of Consistency and Compatibility with Existing State Regulations: During the process of developing the proposed regulatory action, the Board conducted a search of any similar regulations on the topic and concluded that Board Rule 1433 is the only regulation that governs the race meet license applications; Board Rule 1440 is the only regulation concerning concessionaire approvals; Board Rule 1440.5 is the only regulation pertaining to the contractor and sub-contractor license application; Board Rule 2057 is the only regulation that addresses the licensing of a simulcast facility; Board Rule 2059 is the only regulation relating to the approval of a simulcast organization; Board Rule 2066 is the only regulation involving the licensing of minisatellite wagering facilities; Board Rule 2071 is the only regulation regarding the license to conduct advance deposit wagering by a California applicant; and Board Rule 2072 is the only regulation on the subject of the approval to conduct advance deposit wagering by an out-of-state applicant. Therefore, the proposed regulatory action is neither inconsistent nor incompatible with existing state regulations.

*Forms Incorporated by Reference*

- CHRB-17 Application for License to Conduct a Horse Racing Meeting (Rev. 3/23)
- CHRB-18 Application for License to Conduct a Horse Racing Meeting of a California Fair (Rev. 3/23)
- CHRB-87 Application for Approval as a Concessionaire (Rev. 2/23)
- CHRB-86 Application for License as a Contractor or Sub-Contractor (New 2/23)
- CHRB-25 Application for Authorization to Operate a Simulcast Wagering Facility (Rev. 1/23)
- CHRB-25A Personal History Record (Rev. 10/23)
- CHRB-34 Application for Approval to Operate a Simulcast Organization (Rev. 3/23)
- CHRB-228 Application for License to Operate a Minisatellite Wagering Facility (Rev. 4/22)
- CHRB-132 Application for License to Conduct Advance Deposit Wagering (Rev. 12/22)
- CHRB-133 Application For Approval to Conduct Advance Deposit Wagering, CHRB-133 (Rev. 12/22)

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to local agencies and school districts that must be reimbursed in accordance with GC sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

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

The Board has made an initial determination that the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulatory action will amend rules governing various applications used by entities involved in horse racing and pari-mutuel wagering to obtain the necessary approvals and licenses issued by the Board, as well implement revisions to said applications. These rules will be amended to provide for consistency with respect to license terms and processing fees and with actual timelines involved in the processing of these applications. The applications will be revised to incorporate regulatory provisions, correct errors, and provide for clarity and consistency.

The following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative private persons or businesses: The proposed regulatory action will require a prospective or existing simulcast wagering facility to pay a \$500 processing fee as part of its application for license to act as a simulcast wagering facility. As the license term will be five years, the cost would be \$500 every five years, assuming the entity seeks renewal of its license.

Significant effect on housing costs: none.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The adoption of the proposed regulatory action **will not** create or eliminate jobs within the state, **will not** create new businesses or eliminate existing businesses within the state, **will not** result in the expansion of businesses currently doing business with the state, and **will not** benefit worker safety or the state's environment. However, as stated under Anticipated Benefit of the Proposed Regulation, the proposed regulatory action will benefit the health and welfare of California residents by ensuring the suitability of an existing simulcast facility, which will protect the wagering public; easing the administrative process for applicants by providing more time to complete applications and submit required supporting documentation; and providing for better understanding of regulatory requirements by revising regulations and by providing instructions and alleviating errors within applications.

Effect on small business: none. The proposed regulatory action does not affect small business because small businesses are not legally required to comply with or enforce the regulation and neither derive a benefit nor incur a detriment from the enforcement of the regulation. The proposed regulatory action will amend rules governing various applications used by entities involved in horse racing and pari-mutuel wagering to obtain the necessary approvals and licenses issued by the Board, as well implement revisions to said applications. These rules will be amended to provide for consistency with respect to license terms and processing fees and with actual timelines involved in the processing of these applications. The applications will be revised to incorporate regulatory provisions, correct errors, and provide for clarity and consistency. A prospective or existing simulcast wagering facility would be required to pay a \$500 processing fee as part of its application for a new or renewed five-year license, respectively, to act as a simulcast wagering facility.

CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5, subdivision (a)(13), the Board must determine that no reasonable

alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

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

If the person named above is not available, interested parties may contact:

Amanda Drummond, Manager  
Regulations, Industry Applications, and  
Administrative Hearings  
Telephone: (916) 869-3255  
Email: [amdummond@chrb.ca.gov](mailto:amdummond@chrb.ca.gov)

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Rick Pimentel or the alternative contact person at the address, phone number, or email address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Rick Pimentel at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Rick Pimentel at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is [www.chrb.ca.gov](http://www.chrb.ca.gov).

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

#### AMEND COMMISSION REGULATION 1011 PROFESSIONAL CERTIFICATES FOR PUBLIC SAFETY DISPATCHERS AND RECORDS SUPERVISORS

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

**Public Comments Due by March 4, 2024.**



Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227–2801, by email to Michelle Weiler at [Michelle.Weiler@post.ca.gov](mailto:Michelle.Weiler@post.ca.gov) or by letter to:

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

#### AUTHORITY AND REFERENCE

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

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On September 30, 2021, Governor Newsom signed Senate Bill (SB) 2. SB 2 made significant changes to existing Government and Penal Codes, respectively. These changes provide for additional peace officer hiring eligibility requirements. SB 2 also grants POST the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST determine serious misconduct occurred. While the peace officer eligibility hiring requirements went into effect on January 1, 2022, the remaining changes to Government and Penal Codes went into effect on January 1, 2023. POST is continuing to assess the requirements of SB 2 and adopt new or amend current regulations to meet these requirements.

During the creation of new regulation to address peace officer certification and decertification, Commission Regulation 1011 was amended to remove peace officer certificate requirements but left intact the certificate requirements for public safety dispatchers and records supervisors. In doing so, requirements related to eligibility for peace officer professional certificates were inadvertently left in Commission Regulation 1011. This rulemaking action seeks to omit these references and clarify the eligibility requirements for public safety dispatchers and records supervisors only.

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

The benefits anticipated by the proposed amendments are additional clarity in the eligibility requirements and application process for professional certificates for public safety dispatchers and records supervisors. This will increase the efficiency of the state of

California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving public health, safety, and welfare in the state. The proposed amendments will have no impact on worker safety or the state’s environment.

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

POST has determined that the proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that this is the only regulation that concerns processes and procedures for public safety dispatchers and records supervisors to qualify and apply for professional certificates.

#### FORMS INCORPORATED BY REFERENCE

There are no forms to be incorporated by reference.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

#### *POST has made the following initial determinations:*

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

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

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending, or repealing regulations. Additionally, the Commission’s main function to select and maintain hiring, training, and certification standards for law enforcement personnel has no effect financially on small businesses.

**RESULTS OF ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT**

POST concludes that it is (1) unlikely the proposal will create or eliminate jobs in the state of California, (2) unlikely that the proposal will create or eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity to the regulated public as to the eligibility requirements and application process for professional certificates for public safety dispatchers and records supervisors. Thus, law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the state’s environment.

**CONSIDERATION OF ALTERNATIVES**

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

**CONTACT PERSONS**

Questions regarding this proposed regulatory action may be directed to [Michelle Weiler](#), Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630 at (916) 227–4870. General questions regarding the regulatory process may be directed to [Katelynn Poulos](#) at (916) 227–4894.

**TEXT OF PROPOSAL**

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

**ADOPTION OF PROPOSED REGULATIONS/  
AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

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

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

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

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

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

**AMEND COMMISSION REGULATION 1210  
VOLUNTARY SURRENDER**

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

**Public Comments Due by March 4, 2024.**

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

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

#### AUTHORITY AND REFERENCE

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

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On September 30, 2021, Governor Newsom signed Senate Bill (SB) 2 (2021). SB 2 made significant changes to existing Government and Penal Codes, respectively. These changes provide for additional peace officer hiring eligibility requirements. SB 2 also grants POST the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST determine serious misconduct occurred. While the peace officer eligibility hiring requirements went into effect on January 1, 2022, the remaining changes to Government and Penal Codes went into effect on January 1, 2023.

This rulemaking action clarifies and makes specific the information required to be submitted on the *Voluntary Surrender of Peace Officer Certification Form* (POST 2–358) to address the need for more information from peace officers surrendering their certifications and the need to verify the identity of the peace officers surrendering their certifications, to the best extent possible.

The regulatory amendment proposed in this rulemaking action will clarify the reasons for surrender to indicate whether it is the result of a resolution or settlement, or a plea agreement related to criminal proceedings, or another reason not required to be specified. The proposed amendment also provides for the requirement that the form be notarized by a registered notary public, in addition to a signed acknowledgement by the peace officer surrendering their certification.

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

The benefits anticipated by the proposed amendments to the regulation will provide clarity regarding the information required to be reported on the *Voluntary Surrender of Peace Officer Certification Form* (POST 2–358). This will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving public health, safety, and welfare in the state. The proposed amendments will have no impact on worker safety or the state’s environment.

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

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that this is the only regulation that concerns processes and procedures for general qualifications to be an instructor in peace officer training in the state.

#### FORMS INCORPORATED BY REFERENCE

The proposed amendments primarily affect the *Voluntary Surrender of Peace Officer Certification Form* (POST 2–358, Revised 1/2024), which is incorporated by reference.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

##### *POST has made the following initial determinations:*

- Mandate on local agencies or school districts: None.
- Cost or savings to any state agency: None.
- Costs to any local agency or school district which must be reimbursed in accordance with GC §§ 17500 through 17630: None.
- Other non–discretionary costs or savings imposed on local agencies: None.
- Costs or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business: POST is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant, statewide adverse economic impact directly affecting California businesses: POST has determined that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed amendments will not affect small business because the regulation only affects state agencies that are adopting, amending, or repealing regulations. Additionally, the Commission’s main function is to select and maintain training standards for law enforcement and has no effect financially on small businesses.

**RESULTS OF ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT**

POST concludes that it is (1) unlikely the proposal will create or eliminate jobs in the state of California, (2) unlikely that the proposal will create or eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity regarding the information required to be reported on the *Voluntary Surrender of Peace Officer Certification Form* (POST 2–358). Thus, law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the state’s environment.

**CONSIDERATION OF ALTERNATIVES**

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

**CONTACT PERSONS**

Questions regarding this proposed regulatory action may be directed to [Michelle Weiler](#), Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630, at (916) 227–4870. General questions regarding the regulatory process may be directed to [Katelynn Poulos](#) at (916) 227–4894.

**TEXT OF PROPOSAL**

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

**ADOPTION OF PROPOSED REGULATIONS/  
AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

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

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

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

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

**TITLE 16. BOARD OF ACCOUNTANCY**

**PROFESSIONAL ETHICS EXAM AND  
CONTINUING EDUCATION**

**NOTICE IS HEREBY GIVEN** that the California Board of Accountancy (CBA) is proposing to take the

action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

### PUBLIC HEARING

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

### WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or email to the addresses listed under “Contact Person” in this Notice, must be **received by the CBA at its office no later than Tuesday, March 5, 2024, by 5:00 p.m.**, or must be received by the CBA at the hearing, should one be scheduled.

### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 5010, 5018, and 5027 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 5018, 5027, 5028, 5082, 5092, and 5093, the CBA is considering amending sections 10 and 87.1 and adding section 10.1 to title 16 of the California Code of Regulations (CCR).

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CBA licenses, regulates, and investigates complaints against four different license categories in California, totaling approximately 114,000 licensees and registrants. These licensing categories include Public Accountant (PA), Certified Public Accountant (CPA), Accountancy Corporation (COR), and Accountancy Partnership (PAR). It is the CBA’s duty to enforce and administer the Accountancy Act Chapter 1 (commencing with section 5000) of Division 3 of the BPC. The CBA is authorized to establish necessary rules and regulations for the enforcement of the Accountancy Act and laws subject to its jurisdiction (BPC 5010).

The CBA’s mission is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards. One of the ways the CBA does this is by regulating entry and continuing practice in the pro-

fession by ensuring only those who are qualified are licensed to practice public accountancy.

BPC section 139 mandates the Department of Consumer Affairs (DCA) to conduct periodic evaluations of all licensing examinations administered by its boards and bureaus and to develop a policy regarding examination development and validation, and occupational analysis.

CCR section 10 requires all CPA applicants to pass a CBA–approved examination in professional ethics no sooner than two years prior to the date on which they apply for licensure.

CCR section 87.1 describes the continuing education (CE) requirements for newly licensed CPAs. Currently, newly licensed CPAs are not required to complete any CE if their first expiration date is less than six months from their license issuance date.

CCR section 87.8 requires licensees who are renewing in an active status to complete a two–hour CBA–approved Regulatory Review course every six years.

CCR section 87.9 describes the requirements for a Regulatory Review course to be approved by the CBA.

The CBA requested that DCA’s Office of Professional Examination Services (OPES) complete the required comprehensive review of the Uniform CPA Examination (CPA Exam) and the Professional Ethics Examination for Certified Public Accountants (PETH Exam) pursuant to BPC section 139. OPES issued its reports in June 2023, concluding that sufficient evidence was found to support the continued use of the CPA Exam as a licensure examination. OPES indicated they had concerns about the validity of using the PETH Exam for licensure decisions. Additionally, OPES found that approximately 87% of the PETH Exam was duplicative of the CPA Exam. The remaining 13% covered California–specific laws and regulations.

The CBA’s proposal would address OPES’s concerns about the validity of the PETH Exam for licensure decisions by eliminating the requirement for the PETH Exam prior to licensure. Additionally, the proposal would require newly licensed CPAs to complete a CBA–approved Regulatory Review CE course prior to their first license expiration date. This approach would address the California–specific laws and regulations that would not be covered with the elimination of the PETH Exam.

This would require an amendment to CCR sections 10 and 87.1. Specifically, the proposal would do the following:

#### **Section 10**

This section would be amended to phase out the PETH Exam as a licensure exam.

#### **Section 10.1**

This section would be added to allow individuals who have purchased the PETH Exam and not yet applied it to licensure to use a passing score on the PETH

Exam to meet the Regulatory Review requirements for new licensees, as described below.

**Section 87.1**

This section would be amended to require newly licensed CPAs to complete a CBA–approved Regulatory Review course prior to their first license expiration date.

**Anticipated Benefits of Proposal**

Eliminating the PETH Exam requirement is supported by the OPES findings, eliminates a barrier to licensure that is not supported by evidence, and reduces applicant licensure costs. Currently, the Regulatory Review course is not required until six years after licensure. Requiring the Regulatory Review course prior to the first license expiration date would support the CBA’s mission of consumer protection by providing important information for newly licensed CPAs engaged in the practice of public accountancy.

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

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

**DISCLOSURES REGARDING THIS PROPOSED ACTION**

**FISCAL IMPACT ESTIMATES**

**Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:** The CBA anticipates one–time workload and costs to implement the regulations, including updating and posting the new requirements on the CBA’s website, as well as informational outreach to stakeholders and training of CBA staff to aid in the transition.

The CBA estimates one–time workload costs of approximately \$5,000 to implement the proposed regulations. Any workload and costs are anticipated to be absorbed within existing resources.

The CBA does not anticipate any additional licensing workload or costs resulting from eliminating the PETH Exam pre–licensure requirement and adding the two–hour Regulatory Review CE course renewal licensure requirement as the CBA presently reviews all CE courses submitted for a CPA’s license renewal.

In the event a CE provider opts to apply to the CBA for approval to provide the two–hour regulatory CE coursework, the CBA estimates total workload and costs of approximately \$3,500 per application. The CBA notes, notwithstanding the proposed regulations, the CBA would otherwise incur the estimated

workload and costs for a course provider seeking CBA approval.

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

**Nondiscretionary Costs/Savings to Local Agencies**

None.

**Cost to any Local Agency or School District for which Government Code Sections 17500–17630 Require Reimbursement**

None.

**Mandate Imposed on Local Agencies or School Districts**

None.

**Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard)**

None.

**BUSINESS IMPACT ESTIMATES**

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

This initial determination is based on the following facts/evidence/documents or testimony:

Currently, pre–licensure candidates are required to pass the PETH Exam, which is administered by CalCPA. Approximately 3,150 candidates pay \$175 to take the PETH Exam per year, which results in total annual costs to applicants of \$551,250.

Under this proposal, pre–licensure applicants will no longer be required to take the PETH Exam. The elimination of the PETH Exam will result in a revenue loss to CalCPA in the amount of \$551,250 annually. However, the CBA notes, in the event an individual opts to enroll in the two–hour Regulatory Review CE course offered by CalCPA, any lost revenues due to the elimination of the PETH Exam may be offset with CE course fees. However, the CBA does not have an estimate at this time.

The PETH Examination is a California–specific requirement and will not impact the ability of California businesses to compete with businesses in other states.

**Cost Impact on Representative Private Person or Business (Must be consistent with Business Impact Estimate and Form 399)**

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the CBA include:

Currently, pre–licensure candidates are required to pass the PETH Exam, which is administered by

CalCPA. Approximately 3,150 candidates pay \$175 to take the PETH Exam per year, which results in total annual costs to applicants of \$551,250.

Under this proposal, pre–licensure applicants will no longer be required to take the PETH Exam. Instead, once an applicant is licensed as a CPA, they will be required to complete a two–hour Regulatory Review CE course by their first license renewal. The average cost of a Regulatory Review CE course is \$50, resulting in total annual costs to applicants of \$157,500.

To assist those who have purchased the PETH Exam and are not able to use it to meet their licensure requirements before the elimination, the CBA has proposed a two–year transition period to allow completion of the PETH Exam to count towards two hours of technical CE for their first license renewal.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Board has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the state. The Board made this determination because the proposed regulation does not impose any new requirements or restrictions that would affect the creation or elimination of jobs within the state.

The Board has determined that the proposed regulatory action will not affect the creation of new businesses or the elimination of existing businesses within the state. The Board made this determination because the proposed regulation does not impose any new requirements or restrictions that would affect the creation of new businesses or elimination of existing businesses within the state.

The Board has determined that the proposed regulatory action will not affect the expansion of businesses currently doing business within the state. The Board made this determination because the proposed regulation does not impose any new requirements or restrictions that would affect the expansion of businesses within the state.

The Board has determined that the proposed regulatory action will not benefit the health of welfare of California’s residents, worker safety, and the state’s environment because is limited to the Board’s pre–licensing requirements.

#### Benefits of Regulation

This regulatory proposal is intended to maintain consumer protection and professional standards by streamlining pre–licensure requirements and reducing barriers to licensure, while also helping to ensure the CBA’s CE requirements are robust and thorough.

#### Business Reporting Requirements

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

#### Effect on Small Business

The proposed regulation will have no effect on small businesses because it creates no new requirements or restrictions.

#### CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments to the CBA in writing relevant to the above determinations at 2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833 or by sending an email to [Regulations@cba.ca.gov](mailto:Regulations@cba.ca.gov) during the written comment period, or at the hearing if one is scheduled or requested.

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

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

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the CBA at 2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833 or via email at [Regulations@cba.ca.gov](mailto:Regulations@cba.ca.gov).

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the CBA, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will

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

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

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

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

**CONTACT PERSONS**

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

Name: Sarah Benedict  
Address: 2450 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
Telephone Number: 916-809-4028  
Fax Number: 916-263-3673  
Email Address: [Regulations@cba.ca.gov](mailto:Regulations@cba.ca.gov)

The backup contact person is:

Name: Matthew Parsons  
Address: 2450 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
Telephone Number: 279-236-3091  
Fax Number: 916-263-3673  
Email Address: [Regulations@cba.ca.gov](mailto:Regulations@cba.ca.gov)

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the CBA's website at <https://www.dca.ca.gov/cba/about-cba/pending-regs.shtml>.

**TITLE 16. BUREAU OF AUTOMOTIVE REPAIR**

**UPDATED SMOG CHECK EQUIPMENT AND STATION REQUIREMENTS**

**NOTICE IS HEREBY GIVEN** that the Department of Consumer Affairs, Bureau of Automotive Re-

pair (hereinafter "Bureau" or "BAR") is proposing to take the actions described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

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

**WRITTEN COMMENT PERIOD**

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, to be considered by the Bureau, must be *received* by the Bureau at its office no later than **by 5:00 p.m., Tuesday, March 5, 2024**, or must be received by the Bureau at any requested hearing, if one is held.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by sections 44002, 44036 and 44037.1 of the Health and Safety Code (HSC) and Section 9882 of the Business and Professions Code (BPC), to implement, interpret, or make specific HSC sections 44012, 44036 and 44037.1, the Bureau is considering amending section 3340.17 article 5.5 of chapter 1 of division 33 of title 16 of the California Code of Regulations (CCR).

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The primary purpose of this proposal is to replace the current BAR-On-board Diagnostics (BAR-OBDD) Data Acquisition Device (DAD) Specification with a more comprehensive and updated version. This change is necessary to provide BAR with additional tools to combat fraud in the Smog Check Program. In addition, this change will allow the DAD to communicate with new vehicles that use a communication protocol not supported by the current generation of DADs. Currently, the "BAR OBD Inspection System Data Acquisition Device (DAD) Specification" dated October 22, 2012, regulates vehicle inspection systems used in California Smog Check stations, as well as inspections and enforcements for the Smog Check Program.



The Bureau is proposing the following changes:

*Amend 16 CCR Section 3340.17: Test Equipment, Electronic Transmission, Maintenance and Calibration Records*

This section is modified to reflect the correct revision date of the BAR OBD Inspection System Data Acquisition Device Specification. Subdivisions (b)(1) and (b)(2) are added to specify the implementation dates of the revised specification in this proposed rulemaking.

*Amend Data Acquisition Device Specification Section 1.2: Scope*

The Scope section is modified to reflect the current state of technology and business environment. Additions to the scope provisions include references to “biometric device” and “camera” to reflect future technological usage. Changes are proposed to the language describing the operating systems used by the BAR–On-board Diagnostics Inspection System (BAR-OIS) device. Other changes clarify word usage or names for existing technologies.

*Amend Data Acquisition Device Specification Section 2: Data Acquisition Device Overview*

Section 2 is modified because the existing language is difficult to understand and superfluous, as such, it is necessary to amend to make it more concise, easier to understand, and improve flow and readability. This will help further efficiency of regulations, improve understanding, and eliminate unnecessary questions from licensees, consumers, and staff. Revisions are being proposed to references to operating systems to align the description with that in Section 1.2. “Biometric device” and “camera” are also being added to reflect future technological usage.

*Amend Data Acquisition Device Specification Section 3: Requirements*

This Requirements section includes the necessary detailed requirements which the DAD must meet to obtain BAR certification. In addition to punctuation and grammar changes, changes proposed to this section include adding the following requirements and specifications:

- That vendors release only the current production version of the BAR–OIS software to stations,
- A prohibition against allowing the Data Acquisition Device to cause malfunctions to a vehicle’s systems or operation,
- Software installation, error reporting, and version naming requirements, vendor–to–bureau reporting and data transmission requirements, file verification requirements for vendors, data logging and collection methods, and communications standards and protocols,
- Product support and labeling requirements,

- Global Navigation Satellite System data reporting requirements and device technical specifications,
- Computer device driver specifications,
- Analog Data Sampler technical specifications, data management specifications, and reporting requirements,
- Requirements for measuring vehicle system voltage,
- Revisions to existing references to external document names and revision dates, and to external technical standards from the Society of Automotive Engineers / International Organization for Standardization (SAE/ISO), Minimum connectivity rate standards,
- Other technical software and hardware specifications for the device and its minimum operating and durability standards.

*Amend Data Acquisition Device Specification Section 4: Functional Validation Tests*

This DAD specification section explains to the DAD Vendors the different tests that BAR will perform in the certification testing of the DAD. In addition to textual clarification and deletion of unnecessary language, this proposed rulemaking includes the following changes to the validation tests section:

- Deletion of requirements to match Bureau testing capabilities and procedures,
- Addition of a sine wave production capability requirement for Bureau testing comparison purposes.

*Amend Data Acquisition Device Specification Section 5: Certification, Annual Recertification and Decertification/Citation*

This DAD specification section explains to the DAD Vendors the procedural methodologies and requirements involved in the certification and annual recertification testing of the DAD. In addition to textual clarification and deletion of unnecessary language, this proposed rulemaking includes the following changes:

- Changing the Bureau’s certification event standards, clarifying language about the event and how it occurs, and clarifying how fees are collected for certification
- Addition of petition and material submission requirements for certification testing events,
- Clarification of existing and addition of new certification testing procedures and standards,
- Clarification of existing and addition of new recertification timing and requirements.

**ANTICIPATED BENEFITS OF THE  
PROPOSED REGULATION**

Additional fraud detection and prevention methods fed by data collected by the new DAD will support BAR’s Enforcement staff in rooting out Smog Check stations that conduct fraudulent inspections. This will reduce the number of improperly certified vehicles, thus improving air quality and protecting consumers who may have otherwise purchased these illegally certified vehicles. Inspectors who perform legitimate inspections will benefit because fraudulent actors will be more likely to turn customers seeking an illegitimate inspection away.

**CONSISTENCY AND COMPATIBILITY  
WITH EXISTING STATE REGULATIONS**

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

**DOCUMENTS INCORPORATED  
BY REFERENCE**

Bureau of Automotive Repair California Vehicle Inspection System Data Acquisition Device Specification, October 2023.

**DISCLOSURES REGARDING THE  
PROPOSED ACTION**

**MANDATED BY FEDERAL LAW OR REGULATIONS:**

None.

**LOCAL MANDATE:**

None.

**FISCAL IMPACT ESTIMATES**

**COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTIONS 17500–17630 REQUIRE REIMBURSEMENT:**

None.

**FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES AND COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:**

BAR will be required to update existing IT systems with one–time costs of \$520,000 expended over two–year period — estimated 3,500 total workload hours.

BAR will also pay an annual software license fee of \$9,400.

Any workload and costs are absorbed within BAR’s existing IT maintenance contract.

BAR notes this proposal updates existing technical specifications and any enforcement–related activities related to non–compliance would be enforced under other regulatory and statutory authority. As a result, the proposed regulations do not include an estimate of enforcement related workload or costs.

This proposal will result in no costs or savings in federal funding to the state.

**NONDISCRETIONARY COSTS/SAVINGS TO LOCAL AGENCIES:**

None.

**EFFECT ON HOUSING COSTS:**

None.

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

None.

**RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS**

The Bureau has determined that this regulatory proposal will have a minimal impact, if any, on the creation of jobs or new businesses or the elimination of jobs or existing businesses in the State of California.

In addition, the proposed action is not expected to expand or reduce existing business.

For more on benefits of the regulatory proposal, see above in this notice.

**COST IMPACT ON REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS**

A representative private person or business may incur costs in reasonable compliance with the proposed action.

BAR estimates each DAD costs \$3,000 and approximately 8,000 DADs will be purchased in the first two–years of implementation (4,000 in each year) and 400 per year thereafter with costs ranging from \$1.2 million to \$12 million per year and up to \$33.6 million over a ten–year period.

BAR provides the DAD IT software system as no costs to the licensee. As a result, no additional costs are required to implement the proposed regulations.

BUSINESS REPORTING REQUIREMENTS

In the DAD specification, there is a new reporting requirement for DAD vendors to tell BAR about tampered devices. Section 3.2.90 states that “the BAR Certified DAD Vendor shall report to BAR within 48 hours the DAD’s that have been returned to them as tampered along with the details.” It is necessary for the health, safety, or welfare of the people of the state that the regulation which requires a report apply to businesses.

EFFECT ON SMALL BUSINESS

BAR has initially determined that the proposed regulations will have an effect on small business, and the effect will not be significant. See discussion under ***COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS*** above.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements orally or in writing relevant to the above determinations at any requested hearing.

CONTACT PERSON

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

Holly O’Connor  
Bureau of Automotive Repair  
10949 North Mather Boulevard  
Rancho Cordova, CA 95670  
Telephone: (916) 403-8627  
Email: [Holly.OConnor@dca.ca.gov](mailto:Holly.OConnor@dca.ca.gov)

Garrett Torgerson  
Bureau of Automotive Repair  
10949 North Mather Boulevard  
Rancho Cordova, CA 95670  
Telephone: (916) 403-8627  
Email: [Garrett.Torgerson@dca.ca.gov](mailto:Garrett.Torgerson@dca.ca.gov)

INITIAL STATEMENT OF REASONS AND INFORMATION

BAR has prepared an Initial Statement of Reasons of 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, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau of Automotive Repair at 10949 North Mather Boulevard, Rancho Cordova, California 95670.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding any requested hearing and considering all timely and relevant comments received, the Bureau may adopt the proposed regulations substantially as described in this notice. If the Bureau makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Bureau adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Holly O’Connor at the address indicated above. The Bureau will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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

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 above.

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 above, or by accessing the website listed below.

WEBSITE ACCESS

Materials regarding this proposal can also be found on BAR’s Web site at [https://www.bar.ca.gov/About\\_BAR/Regulatory\\_Actions.aspx](https://www.bar.ca.gov/About_BAR/Regulatory_Actions.aspx).

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND WILDLIFE**

PROPOSED PROJECT ON A FULLY PROTECTED SPECIES TISCORNIA MARSH HABITAT RESTORATION AND SEA LEVEL RISE ADAPTATION PROJECT 2081(A)-2023-0012-R3 COUNTY OF MARIN

The Department of Fish and Wildlife (CDFW) received a project proposal on December 13, 2023, from the Marin Audubon Society and the City of San Rafael requesting authorization to take fully protected California black rail (*Laterallus jamaicensis corturniculus*), fully protected California Ridgway’s rail (*Rallus longirostris obsoluteus*), and fully protected salt-marsh harvest mouse (*Reithrodontomys raviventris*) in an effort to recover fully protected, threatened, or endangered species. The California black rail is also listed as threatened under the California Endangered Species Act. The Salt-marsh harvest mouse and the California Ridgway’s rail are both listed as endangered under the California Endangered Species Act and under the federal Endangered Species Act.

The Marin Audubon Society and the City of San Rafael propose to implement a project that would restore Tiscornia Marsh and improve the shoreline levee at the confluence of San Rafael Creek and San Rafael Bay. A coarse-grained gravel beach would be constructed along the bayside edge of the restored marsh to prevent future loss of marsh habitat resulting from sea level rise. Tidal action would also be restored to the diked marsh at the north end of Pickleweed Park. In total, the Project would reconstruct approximately four acres of eroded tidal marsh and gravel beach, preserve and protect approximately eight acres of existing marsh, and restore approximately four acres of diked marsh by reconnecting it to tidal inundation. Additionally, approximately 600 feet of levee on the south side of existing diked marsh would be constructed and approximately 1,100 feet of existing shoreline levee would be improved to provide flood protection, public access, and habitat benefits. Proposed activities will include, but are not limited to, excavation and construction of coarse-grained gravel beach, tidal marsh, marsh channels, and habitat features; minor dredging of San Rafael Creek to provide barge access and reusable fill; removal of existing shoreline armoring; construction of new levee and removal of portions of

existing levee. The proposed project will occur in the 28-acre project area located at 50 Canal Street, San Rafael, in the County of Marin, State of California, Assessor Parcel Numbers 009-142-01, 009-032-06, 009-032-08, 009-032-09. CDFW intends to issue, under specified conditions, a Restoration Management Permit (RMP) to authorize applicants to carry out the proposed project.

Pursuant to California Fish and Game Code section 3511(a)(1) and California Fish and Game Code section 4700(a)(1), CDFW may authorize take of fully protected birds and mammals after 30 days’ notice has been provided to affected and interested parties through publication of this notice. If CDFW determines that the proposed project is consistent with the requirements of Section 3511(a)(1) and Section 4700(a)(1), for take of fully protected birds and mammals, it may issue the authorization in the form of an RMP on or after February 18, 2024 for an initial and extendable term of 7 years.

**DEPARTMENT OF FISH AND WILDLIFE**

CALIFORNIA ENDANGERED SPECIES ACT CONSISTENCY DETERMINATION NUMBER 2080-2023-021-02

**Project:** Tisdale Weir Rehabilitation and Fish Passage Project

**Location:** Sutter County

**Applicant:** Department of Water Resources

**Background**

The California Department of Water Resources (DWR) proposes to rehabilitate the Tisdale Weir and install fish passage facilities to extend the structural life by an additional 50 years while improving fish passage and reducing fish stranding. The Tisdale Weir Rehabilitation and Fish Passage Project (Project) construction activities include the rehabilitation and reconstruction of Tisdale Weir, installation of fish passage facilities, and Project site improvements. The Project also includes long-term operations and maintenance.

Rehabilitation and reconstruction of Tisdale Weir will involve the removal of and replacement of the southern abutment; removal and replacement of the northern abutment and installation of an equipment pad; patching, resurfacing, and sealing the existing concrete sill; grouting voids beneath the existing weir structure; partial demolition, removal, and reconstruction of the existing energy dissipation basin; installation of monitoring equipment housing; and investiga-

tion through excavation and potential rehabilitation of sheet pile wall.

Installation of the fish passage facilities will involve improvements or reconstruction to the northern access road; construction of an equipment pad above the north abutment; filling and grading depressions between the existing northern access and Garmire Road; construction of a control building; installation of site utilities on the north end of weir; installation of scour countermeasures to provide protection from high water velocities through the connection channel; removal of a portion of Tisdale Weir on the north end to install a concrete notch structure within existing weir; construction of a connection channel from the Sacramento River to the concrete notch and installation of baffle design elements; installation of an operable, bottom-hinged gate in the concrete notch, including utility connections for electrical, mechanical, and controls; excavation of soil to construct a sloped concrete basin across the downstream edge of the weir; excavation of soil, removal of vegetation, extension of and elevation of the concrete basin downstream, and installation of scour countermeasures to protect against high water velocities through the notch on the north side downstream edge; fill and smooth undulating topography and installation of scour countermeasures to provide transition to native ground and drainage to the notch on the south side downstream edge; installation of a basin access ramp on the south side of the bypass; and installation of security cameras, electronic instruments, and monitoring equipment infrastructure.

Project site improvements include the removal and relocation of existing utility poles within the basin to Garmire Road Bridge; installation of scour countermeasures around the Garmire Road Bridge piers; filling and protecting existing areas around the weir; undulating topography north of the boat launch parking lot and south of the north abutment will be filled, smoothed with scour resistant materials, and regarded; and existing cobble along the upstream edge of the weir will be stabilized by adding material, compacting and/or grouting.

Operations of the Project's fish passage facilities will ensure the facilities can continuously enable fish to pass back into the Sacramento River during flood flows and when floodwaters recede lower than the weir crest. These facilities include the notch; operable gate; baffle fishway elements; connection channel; basin; and controls, security cameras, housing, and other monitoring equipment. Gate operations will control the frequency and duration of fish passage between the bypass and river via the connection channel. The gate will be stored in the open position during the dry season, stored in the closed position during flood season, and will open during flood season when the Tisdale Weir overtops (when the water surface elevation

of the Sacramento River is at or above the notch invert elevation) and the bypass becomes inundated.

Project facilities that will require maintenance, as needed, include: the weir; notch; operable gate; baffle fishway elements; connection channel; basin; access points; controls, security cameras, housing, and other monitoring equipment. Maintenance in the Project area will typically occur during the dry season (April 30–October 31) with the potential of emergency maintenance activities taking place during flood season (November 1–March 30) as necessary. Potential maintenance activities include removing sediment deposits, obstructions and debris, and undesirable vegetation; repairing erosion around structures, damage to operable gate; removing and replacing broken, heaving, or deteriorated concrete; replacing existing scour protection measures; removing and grading excessive scour and sediment deposits. To maximize fish passage and reduce stranding, the location, timing, and/or frequency of some maintenance activities may change, but the nature of the activities will not differ substantially from existing practices.

The Project activities described above are expected to incidentally take<sup>1</sup> Sacramento River winter–run Chinook salmon (*Oncorhynchus tshawytscha*) evolutionarily significant unit (ESU) and Central Valley spring–run Chinook salmon (*O. tshawytscha*) ESU where those activities take place within the Sacramento River and Tisdale Bypass. Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon could be incidentally taken as a result of physical disturbance, increased turbidity, acoustic impacts, dewatering, chemical contamination, crushing, stranding, capture, and relocation, either alone or in combination. Sacramento River winter–run Chinook salmon are designated as an endangered species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (a)(2)(M).) Central Valley spring–run Chinook salmon are designated as a threatened species pursuant to the ESA and CESA. (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(2)(C).)

Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon individuals are documented as occurring at the Project site, and there is suitable rearing and migratory habitat within and adjacent to the Project site. Because of the

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

proximity of the nearest documented occurrences, dispersal patterns, and the presence of suitable rearing and migratory habitat within the Project site, the National Marine Fisheries Service (NMFS) determined that Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon are reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon.

According to NMFS, the Project will result in the temporary loss of 0.96 acres (up to 1.056 acres) of Sacramento River aquatic Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon habitat and 0.28 acres (up to 0.308 acres) of Tisdale Bypass aquatic Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon habitat, totaling 1.24 acres (up to 1.364 acres) of temporary, construction–related habitat loss. The Project’s operations and maintenance activities following overtopping events will result in the temporary loss of 7.2 acres of rearing and migratory Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon habitat. Construction of the Project will also result in the permanent loss of 0.29 acres (up to 0.319 acres) of Sacramento River aquatic Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon habitat, 1.41 acres (up to 1.551 acres) of Tisdale Bypass aquatic Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon habitat, totaling 1.7 acres (up to 1.87) of permanent habitat loss. The Project’s maintenance activities will result in the permanent loss of 0.13 acres of rearing and migratory Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon habitat.

Because the Project is expected to result in take of species designated as endangered and threatened under the federal ESA, the United States Army Corps of Engineers (USACE) consulted with the NMFS as required by the ESA. On November 1, 2023, NMFS issued a biological opinion (NMFS file Number 2023–00509) (BO) to the USACE. The BO describes the Project, requires DWR to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures.

The ITS also requires DWR to implement and adhere to measures contained within the Project Biological Assessment (BA).

On December 6, 2023, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from DWR requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITS and accompanying BO are consistent with CESA for

purposes of the Project and Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon. (Cal. Regulatory Notice Register 2023, Number 51–Z, p. 1663)

### **Determination**

CDFW has determined the ITS, along with its accompanying BO, is consistent with CESA as to the Project and Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon because the mitigation measures contained in the ITS and BO, as well as the conditions in the BA, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA–listed species. Specifically, CDFW finds that: (1) take Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO, ITS, and BA will minimize and fully mitigate the impacts of the authorized take; and (3) the Project will not jeopardize the continued existence of Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon. The mitigation measures in the ITS, BO, and BA include, but are not limited to, the following:

### **Avoidance, Minimization, and Mitigation Measures**

#### *General Environmental and Water Quality Measures*

- 1) *Environmental Awareness Training.* Before any work occurs within the project site, including equipment staging and vegetation removal, a qualified biologist (familiar with the resources in the area) will conduct a mandatory environmental awareness training. The training will be provided to all construction personnel (contractors and subcontractors), briefing them on the need to avoid and minimize effects on sensitive biological resources within the project site and the penalties for not complying with applicable federal and state laws and permit requirements. The biologist will inform all construction and maintenance personnel about the life history and habitat requirements of special–status species with potential for occurrence on–site, and the terms and conditions of the biological opinion or other authorizing document (e.g., letter of concurrence).

#### *Measures for Listed Fish Species*

- 1) *In–water Work Window.* In–water construction activities, including cofferdam construction (sheet pile installation) and dewatering, will be restricted to July 1 to September 30 when listed fish species are less likely to occur within or near the project site. If in–water work can be avoided during cofferdam installation because the river is low enough that the cofferdam installation occurs on dry land, outside of the water, then cofferdam

construction may start as early as April 30. Work will be suspended if Tisdale Weir is forecast to overtop during the construction window.

- 2) *Designated Biologist Presence.* A designated biologist will be onsite when work is planned to occur in water or near the water’s edge or any time where disturbance of ESA listed fish species may be possible. The designated biologist will be present during cofferdam installation and removal to monitor construction activities and compliance with the terms and conditions of permits. For pile driving occurring in the water using an impact hammer, hydroacoustic monitoring of underwater sound levels will be performed to ensure compliance with established thresholds. If any salmonids or sturgeon are found dead or injured during pile driving activities, NMFS and CDFW will be notified immediately, and in–water pile driving will cease.

*Fish Rescue During Construction–Related Dewatering*

- 1) *Fish Rescue and Relocation Plan.* DWR will submit a Fish Rescue and Relocation Plan (FRRP) to NMFS and CDFW before construction. NMFS– and CDFW–approved fish biologists will conduct fish rescues, as needed, in the cofferdam area before dewatering. Fish rescue will also occur in the unlikely event that Sacramento River flows overtop the cofferdam. Methods used for capturing fish may include seining and dip netting. Initial turbid water will be pumped into the Tisdale Bypass. Pump intakes will be fitted with appropriately sized, NMFS– and/or CDFW–approved fish screens to prevent fish from becoming entrained.

DWR will prepare and implement a FRRP to minimize fish entrainment and/or stranded during construction, maintenance, and operations. The plan will include, at minimum: (1) a list of fish species that may be encountered, (2) descriptions of the proposed methods and equipment to be used to prevent fish stranding, (3) the proposed timing of fish relocation activities, (4) the proposed location where captured fish will be released, (5) the qualifications of the approved fish biologist implementing the plan, and (6) description of the dewatering methods. DWR will submit the FRRP to CDFW and NMFS no less than ten business days prior to planned dewatering for construction and maintenance activities. During project operations, DWR will confirm the application of the FRRP and include it (and any updates) as an appendix to the annual technical memorandum. DWR can confirm by email the intent to use the same FRRP or provide any update to the FRRP as needed. The FRRP will be

provided prior to an overtopping event, which is likely around the month of October or November. The requirements described below apply only to the rescue and relocation of fish species covered in the 2023 DWR BA, and not to other species of fish.

DWR will incorporate the following requirements into the FRRP:

- a) DWR will conduct fish rescue and relocation efforts in accordance with project permits.
- b) Fish rescue and relocation operations will occur at all in–water construction or in–water maintenance sites where dewatering and resulting isolation of fish may occur, with the exception that debris removal from a location such as the fish channel can occur to release the water and fish to allow them to maneuver/swim through the channel and out to the Sacramento River.
- c) The approved fish biologist(s) will, in consultation with CDFW and NMFS, determine appropriate site–specific procedures for excluding fish from construction/maintenance areas, removing fish from construction/maintenance areas should they become trapped, and preventing fish from reentering construction/maintenance areas prior to dewatering based on site–specific conditions and construction/maintenance activities.
- d) Each team conducting fish rescue and relocation efforts will include at least one approved fish biologist.
- e) To avoid and minimize the risk of injury to fish and where it can be safely done, attempts to seine and/or net fish will always precede the use of electrofishing equipment. Electrofishing will be conducted in accordance with NMFS and other appropriate fish and wildlife agency guidelines.
- f) DWR will include the results of all fish capture and relocation efforts in the annual technical memorandum, including, but not limited to, date, time, location, comments, method of capture, fish species, number of fish, life stage, condition, release location, and release time.
- g) The approved fish biologist will place dead fish (species list described in this BA) in sealed plastic bags with labels indicating species, location, date, and time of collection, store them on ice then freeze as soon as possible. DWR will notify both NMFS and CDFW to determine which agency will receive the frozen specimens. Transference of dead fish species will be coordinated with

NMFS or CDFW Region 2 District Fisheries Biologist for Sutter County. DWR will notify CDFW and NMFS of any lethal take that occurs within 24 hours. Dead fish observed within the project area that were obviously handled by other survey methods, such as carcass surveys upstream, will not be collected by DWR.

**Monitoring and Reporting**

- 1) *Monitoring Timeline and Technical Working Group.* DWR will monitor the project for a minimum of 5 years that water overtops the Tisdale Weir and flows from Sacramento River to the Tisdale Bypass to evaluate the project success (reduction in fish stranding) and determine any fish rescue needs. The number of years can be increased if the Technical Working Group (TWG) recommends more information is needed to determine the success of the project. The TWG team will consist of representatives from DWR, NMFS, and CDFW. The first TWG meeting will be held following the initial operations, after the flood season has passed. At this meeting, participants will determine the appropriate timing for future meetings including how often and when to start the meetings. Language may also include a determination as to when a meeting is not warranted such as no significant spill events occurred. The TWG participants will work toward defining existing uncertainties about the facility’s performance or fish passage based on information gathered during monitoring. The TWG will also develop triggers for fish rescue events during project operation, estimate net improvements to passage and stranding and discuss adaptive measures regarding operational advice that could be employed if objectives are not being met. The guidelines for the TWG will be described in the adaptive management plan, otherwise called the long-term management plan (LTMP) (see details in the adaptive management measure below). A fish rescue could be needed due to physical obstruction, mechanical failures within the fish passage facilities, observations that fish in the basin are in poor health, or other unforeseen reasons deemed necessary to conduct a fish rescue.
- 2) *Adaptive Management.* After construction is completed, operation of the fish passage facilities and reductions in fish passage stranding will be monitored and evaluated to provide feedback on project operations. Project operational changes may be necessary to meet the objective of reducing fish stranding. Adaptive management will be an annual (depending on overtopping events), it-

erative process based on a review of executed operations and any monitoring data collected.

The TWG is anticipated to have qualified technical experts from DWR, NMFS, and CDFW. After 5 years, the need to continue convening the TWG will be evaluated. Adaptive management will include the following components as administered by the TWG:

- a) *Adaptive Management Plan:* This plan will guide discussion of any recommendations for future operational changes that may need to be considered, as is appropriate. For any operational changes, DWR will have to consider many factors beyond fish passage needs, such as employee safety, river flows and splits, hydrology, feasibility, etc. The plan will also provide the contents for organizing discussion around annual reporting expectations, defining existing uncertainties about facility performance or fish passage that can be evaluated during monitoring, developing potential triggers for fish rescue events during project operation, estimating net improvement to passage and stranding, and discussing adaptive measures that could be employed if objectives are not being met.
- b) *Annual Process (annual technical memorandum):* No later than August 31 of each year, DWR will submit an annual technical memorandum to the TWG members covering the previous overtopping season. DWR may submit a written request for a variance within which to submit the annual technical memorandum for unforeseen circumstances. The annual technical memorandum will (1) synthesize operations and study results from any biological and physical monitoring and rescues conducted after overtopping events; (2) include an analysis of the take of species during the covered season; and (3) include a review of the operations and lessons learned from the covered season.
- c) *Monitoring:* Monitoring will be based on overtopping events. To monitor and evaluate the performance of the notch/gate/channel structure, biological and physical data will be collected. Monitoring will include the following:
  - i. *Biological Monitoring — Observe/document fish activities including stranding and determine if fish are present in inundated areas.*
  - Closed Gate (<4 hours overtopping) — (5 flood-event years)*



After an overtopping event recedes and when river forecasts do not indicate additional overtopping within the next 5 days:

- a. DWR Environmental Scientist (ES) staff will observe/document fish activities including stranding by visual observation.
- b. DWR staff may also use security cameras that can be trained on the dissipation basin/fish channel to observe fish activities.
- c. If an ES determines fish are present or if flood debris impedes full observation of the inundated area, an evaluation will be made on how to remove obstruction to allow safe access into the basin.
- d. If fish are observed, ES staff will collect water temperature, depth, and dissolved oxygen (DO) readings.

*Open Gate (>4 hours overtopping) — (5 flood–event years)*

After water recedes below the weir, but while water remains in the alcove (river stage 33 through 37), during late season gate closures, and when water recedes to stage 33 or below (the alcove has drained):

- a. DWR ES staff will drive to the site to observe/document fish activities including stranding by visual observation.
- b. DWR staff may also use security cameras that are trained on the dissipation basin/fish channel to observe fish activities.
- c. Electronic readings are collected for the following: water temperature, elevation, and DO.
- d. When water drains from the alcove, ES staff will observe/document accumulated sediment and vegetation; areas of scour, pools, or ponding; or other debris and determine if fish are stranded as a result. If ES determines fish are present or if collected flood debris impedes full observation of the inundated area, an evaluation will be made on how to remove obstruction to allow safe access into basin.

- ii. Physical Monitoring — Monitoring will include measurements of depth, temperature, and dissolved oxygen as well as monitoring of debris buildup in the fish collection basin when feasible and conditions are safe.
- iii. Adaptive Resolution Imaging Sonar (ARIS) Camera — An ARIS camera will be installed, and data collected by DWR for 5 years when the weir is overtopped and flows more than 4 hours. DWR can add years of data collection if, after 5 years, the TWG believes more information needs to be gathered to help assess the success of the project. The timeframe of the extended data collection will be determined by the TWG. Data will be collected during the higher velocities through the notch. This data will help determine if sturgeon and other fish species are passing through the weir.

All reports for CDFW required pursuant to the BO, ITS, and BA shall be sent, preferably by email, to:

Regional Manager  
 Department of Fish and Wildlife  
 North Central Region  
 1701 Nimbus Road,  
 Rancho Cordova, CA 95670  
 Email: [R2CESA@wildlife.ca.gov](mailto:R2CESA@wildlife.ca.gov)

### Conclusion

Impacts from the project will not be significant due to the nature of the project, and are minimized and fully mitigated by the design of the Project’s construction measures, and by its operations. The Project will provide improved hydrologic connectivity for Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon migrating between the Sacramento River and Tisdale Bypass. Following construction of the Project, the conditions and quality of migratory and rearing habitat is expected to rapidly revert to pre–project conditions. Enhanced connectivity is also expected to considerably improve habitat conditions in the bypass, reduce stranding events, and contribute to increased individual survival. Additionally, enhanced hydrologic connectivity between the bypass and the river is anticipated to reduce the necessity and frequency of non–project related fish rescue efforts as well as reduce the susceptibility of listed fish species to poaching and predation in the bypass. The overall effect of the Project will be beneficial to Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon by improving fish passage.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of Sacramento River winter-run Chinook salmon and Central Valley spring-run Chinook salmon, provided DWR implements the Project as described in the ITS and accompanying BO, including adherence to all measures contained therein, and complies with the other conditions described in the BO, ITS, and BA. If there are any substantive changes to the Project, including changes to the mitigation measures, or if NMFS amends or replaces the ITS, its accompanying BO, or BA, DWR shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & G. Code, §§ 2080.1, 2081, subdivisions (b) and (c).)

CDFW's determination that NMFS's ITS and accompanying BO are consistent with CESA is limited to Sacramento River winter-run Chinook salmon and Central Valley spring-run Chinook salmon.

**SUSPENSION OF ACTION  
REGARDING UNDERGROUND  
REGULATIONS**

**DEPARTMENT OF STATE HOSPITALS**

**OFFICE OF ADMINISTRATIVE LAW**

**(PURSUANT TO TITLE 1,  
SECTION 280, OF THE  
CALIFORNIA CODE OF REGULATIONS)**

On September 11, 2023, the Office of Administrative Law (OAL) received a petition challenging Administrative Directive 644, Trust Office Functions, dated March 28, 2023, issued by the Department of State Hospitals-Coalinga, as an alleged underground regulation. Administrative Directive 644 contains information regarding financial guidance for patients, deposit of patient funds, disbursements to patients, special purpose trust accounts for patients, and notary services within the facility.

On January 8, 2024, the Department of State Hospitals certified to OAL that they would not issue, use, enforce, or attempt to enforce the challenged rule. Therefore, pursuant to title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

**SUMMARY OF  
REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE  
SECRETARY OF STATE**

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

Department of Social Services  
File # 2023-1227-01  
Eligibility & Reporting Pregnancy and Pregnancy  
Special Needs Amount for CalWORKs Program

This emergency action amends four sections of the Manual of Policies and Procedures (MPP) to implement statutory changes affecting elements of the California Work Opportunity and Responsibility to Kids (CalWORKs) public assistance program pertaining to the eligibility criteria, verification process, and payment amount of the pregnancy special needs payment. This action is exempt from OAL review pursuant to Welfare and Institutions Code section 11450, subdivision (m).

Title MPP  
Amend: 44-211, 44-316, 80-301, 82-836  
Filed 01/08/2024  
Effective 01/08/2024  
Agency Contact: Everardo Vaca (916) 657-2363

Department of Financial Information System for  
California (FISCAL)  
File # 2023-1219-04  
Conflict-of-Interest Code

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

Title 02  
Amend: 59830  
Filed 01/10/2024  
Effective 01/10/2024  
Agency Contact: Peter Vu (916) 926-7604

Department of Human Resources  
File # 2023-1226-02  
Reimbursement for Meals & Lodging — Excluded

This regulatory action amends travel reimbursement rates for employees excluded from the Ralph C.

Dills Act. The amendments increase the maximum allowable meal and lodging reimbursement rates. The California Department of Human Resources submitted this action to the Office of Administrative Law for Filing and Printing only and exempt from the requirements of the Administrative Procedure Act pursuant to Government Code sections 3539.5(b) and 11340.9(g).

Title 02  
 Amend: 599.619  
 Filed 01/08/2024  
 Effective 01/08/2024  
 Agency Contact: Theresa Reid (916) 324–0526

Gambling Control Commission  
 File # 2023–1130–01  
 Sunset of Section 12130

This action repeals section 12130 per the sunset provision in subsection (l).

Title 04  
 Repeal: 12130  
 Filed 01/09/2024  
 Agency Contact: Josh Rosenstein (916) 274–5823

Division of Workers’ Compensation  
 File # 2023–1121–01  
 Independent Bill Review

As a change without regulatory effect, the Division of Workers’ Compensation (“DWC”) is changing the mailing address for DWC Form IBR–1, the “Request for Independent Bill Review”.

Title 08  
 Amend: 9792.5.8  
 Filed 01/08/2024  
 Agency Contact: Maureen Gray (510) 286–0676

Department of Food and Agriculture  
 File # 2023–1121–02  
 Peach Fruit Fly Eradication Area

This action by the Department of Food and Agriculture expands the eradication area for the peach fruit fly in California to include Sacramento County.

Title 03  
 Amend: 3591.12  
 Filed 01/08/2024  
 Effective 04/01/2024  
 Agency Contact: Rachel Avila (916) 698–2947

Department of Rehabilitation  
 File # 2023–1122–01  
 Preferred Method of Delivery for Appeal Documents

This action changes the default mode of communication for administrative review, mediation, and fair hearing processes to electronic transmission unless

the individual requests a different method or does not provide an email address.

Title 09  
 Amend: 7352, 7353, 7354, 7358  
 Filed 01/08/2024  
 Effective 04/01/2024  
 Agency Contact:  
 Elizabeth Colegrove (916) 558–5825

Veterinary Medical Board  
 File # 2023–1127–01  
 RVT Equivalent Experience and Education

In this rulemaking action, the Board amends its regulation to require a “minimum” rather than a “total” of 20 semester units, 30 quarter units, or 300 hours of instruction, to meet the education requirement. The amendments also eliminate timeframes within which registered veterinary technician (RVT) students in alternate route pathways must complete their education or their clinical experience before the date of their examination.

Title 16  
 Amend: 2068.5  
 Filed 01/09/2024  
 Effective 04/01/2024  
 Agency Contact: Jeffrey Olguin (916) 282–6893

Bureau of Real Estate Appraisers  
 File # 2023–1130–04  
 License Requirements

This action by the by the Bureau of Real Estate Appraisers (“Bureau”) amends existing regulations that concern real estate appraisal licenses issued by the Bureau. The amendments will allow license applicants to complete a Practical Applications of Real Estate (“PAREA”) program approved by the Appraisal Qualifications Board (“AQB”) to satisfy a percentage of the experience requirement depending on the PAREA program completed and the license level being applied for. In addition, the amendments reduce the educational requirement for trainee licenses from 150 hours to 75 hours. The Bureau also made technical and grammatical nonsubstantive changes.

Title 10  
 Amend: 3541, 3568  
 Filed 01/03/2024  
 Effective 01/03/2024  
 Agency Contact: Whitney Spatz (916) 610–9927

Department of Food and Agriculture  
 File # 2023–1129–03  
 Bovine Trichomonosis Control Program

In this regular rulemaking, the Department of Food and Agriculture (“DFA”) is amending regulations per-

taining to the Bovine Trichomonosis Control Program. Specifically, DFA is amending Bull Slaughter Agreement requirements and exemptions for when an Interstate Livestock Entry Permit is required for cattle and bison.

Title 03

Amend: 820, 820.4, 831, 831.4, 839

Filed 01/10/2024

Effective 04/01/2024

Agency Contact: Angelina Velez (916) 718-8242

**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).