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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 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 265 and 355 of the Fish and Game Code and to implement, interpret or make specific sections 265, 355, and 356 of said Code, proposes to amend Section 502, Title 14, California Code of Regulations (CCR), relating to Waterfowl, Migratory; American Coot and Common Moorhen (Common Gallinule).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations in Section 502, Title 14, CCR, provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits for hunting of waterfowl. The proposed Frameworks for the 2024–25 season were approved by the four regional Flyway councils in August 2023 and at the U.S. Fish and Wildlife Service’s (Service) Regulations Committee meeting in October 2023. The Frameworks allow for a liberal duck season which includes: a 107–day season; a 7 daily duck limit including 7 mallards but only 2 hen mallards, 1 pintail, 2 canvasback, 2 redheads, and 2 scaup (during an 86–day season); and closing no later than January 31. The duck daily bag limits and season length, as well as the season lengths for geese, are provided as ranges to allow the Commission flexibility in determining the final regulations.

A range of season length and bag limit (zero bag limit represents a closed season) are also provided for black brant. The range is necessary, as the black brant Framework cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2024. The black brant regulatory package is determined by the most current Winter Brant Survey, rather than the prior year survey. The proposed season length and bag limit will be updated per the Black Brant Harvest Strategy pending results of the January 2024 survey. See the Summary of Proposed

Waterfowl Hunting Regulations for 2024–25 table in the Initial Statement of Reasons.

Lastly, Federal regulations provide that California’s hunting regulations shall conform to those of Arizona in the Colorado River Zone and those of Oregon in the North Coast Special Management Area.

The Department–recommended changes to Section 502 are:

- 1) Decrease the duck season length to 98 days in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone, in subsection 502(d)(3)(B) for the Southern California Zone, and in subsection 502(d)(5)(B) for the Balance of State Zone.
- 2) Decrease the goose season length to 98 days in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone and in subsection 502(d)(3)(B) for the Southern California Zone.
- 3) Allow geese to be taken during Veterans and Active Military Personnel Waterfowl Hunting (VAMP) Days in subsection 502(f)(1)(B)4. for the Balance of State Zone.
- 4) Allow up to five days of falconry–only season in subsection 502(g)(1)(B) for the Southern San Joaquin Valley, Southern California and Balance of State zones.

In addition, an alternative was offered by the public regarding timing of the Late Season for geese in subsection 502(d)(5)(B) for the Balance of State Zone. The proposal was to move the Late Season for geese to coincide with VAMP Days in subsection 502(f)(1)(B)4. Two options have been provided for consideration in the regulatory text to both subsections: option 1 retains the closure of geese on Type A and B wildlife areas during the Late Season and does not allow geese during VAMP Days; option 2 allows goose hunting during the Late Season on Type A and B wildlife areas and allows geese during VAMP Days.

The Department has recommended to maintain the timing and length for the Early and Late goose seasons, and a 98–day Regular Season for geese. This allows goose hunting during the two VAMP days (see item 3 above). However, in the following seasons (2025–26 and later), the Regular Season length may be subject to increases so excess goose days for VAMP Days are reduced or eliminated. For the 2025–26 season, the Late Season would have to be reduced to allow geese during VAMP Days in addition to ducks. Prior to moving the Late Season, the Department would like feedback from the agricultural community on the effectiveness of the regulation to alleviate crop depredation. The Department is concerned about reducing the effectiveness of the Late Season for geese, regulation complexity, and enforcement concerns.

Minor editorial changes are also proposed to clarify and simplify the regulations and to comply with existing federal Frameworks.

A summary of proposed waterfowl hunting regulations for 2023–24 in table format is available in the Initial Statement of Reasons.

Benefits of the regulations

The benefits of the proposed regulations are consistency with federal law and the sustainable management of the state’s waterfowl resources. Continued benefits to jobs and/or businesses that provide services to waterfowl hunters will be realized with the continued adoption of waterfowl hunting seasons in 2024–25.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 502 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate waterfowl hunting regulations.

PUBLIC PARTICIPATION

Comments Submitted by Mail or Email

It is requested, but not required, that written comments be submitted on or before April 4, 2024 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on April 12, 2024. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244–2090.

Meetings

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Headquarters Building, Second Floor, 715 P Street, Sacramento, California, which will commence at 9:00 a.m. on Wednesday, February 14, 2024 and may continue at 8:30 a.m., on Thursday, February 15, 2024. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916–653–4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing,

relevant to this action at a hearing to be held in San Jose, California, which will commence at 8:30 a.m. on Wednesday, April 17, 2024, and may continue at 8:30 a.m., on Thursday, April 18, 2024. The exact location of this meeting has not yet been determined. As soon as this information is available but not less than ten days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published on the Commission’s website. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller–Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Melissa Miller–Henson or Maurene Trotter at FGC@fgc.ca.gov or at the preceding address or phone number. **Melanie Weaver, Senior Environmental Scientist, Department of Fish and Wildlife, (916–502–1139 or Melanie.Weaver@wildlife.ca.gov) has been designated to respond to questions on the substance of the proposed regulations.**

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 355 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.1, 11346.4, and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the

date of adoption by contacting the agency representative named herein.

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

**IMPACT OF REGULATORY ACTION/
RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

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

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

The proposed regulations are expected to maintain a similar level of recreational waterfowl hunting opportunity for the public. Shifting days for general duck season affects available days for falconry-only seasons, which must also be adjusted annually so total season length does not exceed 107 days.

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

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California. The proposed waterfowl regulations will set the 2024-25 waterfowl hunting season dates and bag limits within the federal Frameworks. The total hunting season length of 107 remains the same, with only modifications to the season types (duck, goose or falconry-only) will have little to no impacts to jobs and/or businesses that provide services to waterfowl hunters. The Commission anticipates that the proposed 2024-25 waterfowl hunting regulations provide benefit for the health and welfare of California residents by providing opportunity for outdoor activity. The Commission expects no benefits to worker safety but does expect benefit to the environment in that setting these regulations facilitates maintenance of sufficient waterfowl populations and their habitats while providing for the public's beneficial use and enjoyment. The most recent Service

National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California estimated that migratory bird hunters contributed about \$169 million to the state economy during the 2011 migratory bird hunting season. However, minor variations in hunting regulations such as the ones proposed for waterfowl are, by themselves, unlikely to provide notable economic stimulus to the state. Businesses that support waterfowl hunting are generally small businesses employing a few individuals and, like all small businesses, are subject to failure for a variety of causes. The long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of the same small businesses.

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

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

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

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

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

None.

(h) Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

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

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would

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

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or the department), proposes to adopt sections 3298, 3298.1 and 3298.2 into Title 15, Division 3, Chapter 1, regarding Hunger Strikes.

PUBLIC COMMENT PERIOD

The public comment period begins **January 26, 2024** and closes on **March 13, 2024**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpm@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

CONTACT PERSONS

Primary Contact

A. Colavita
Telephone: (916) 322-8344
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Back-Up

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

Program Contacts

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

PUBLIC HEARING

Date and Time:

March 13, 2024 — 10:00 a.m. to 11:00 a.m.

Place:

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

AUTHORITY AND REFERENCE

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

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

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulations include establishing the rules custody staff shall follow when incarcerated persons engage in hunger strikes.

This action will:

- Define hunger strike terms for clarity to ensure understanding of terms and standardized usage.
- Require use of new CDCR Form 128-HS, Initial Hunger Strike Chrono (12/23) to capture important data that will be utilized by health care and custody staff.

DOCUMENTS INCORPORATED
BY REFERENCE

- CDCR Form 128–HS (12/23), Initial Hunger Strike Chrono.

SPECIFIC BENEFITS ANTICIPATED BY
THE PROPOSED REGULATIONS

Defining hunger strike terminology and providing departmental rules for hunger strikes resolves ambiguities and clarifies standardized processes for department staff. CDCR Form 128–HS will capture important data regarding the reasons why an incarcerated person is on hunger strike, which will be utilized by health care and custody staff to help resolve and prevent future hunger strikes.

EVALUATION OF INCONSISTENCY/
INCOMPATIBILITY WITH
EXISTING REGULATIONS

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

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

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

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESS

The department has made an initial determination that this action will not have a significant statewide adverse economic impact on business, including the ability of California businesses to compete with businesses in other states because the proposed regulations affect the internal management of CDCR only, and place no requirements or restrictions on businesses.

EFFECT ON SMALL BUSINESSES

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

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on worker safety or the state’s environment.

CONSIDERATION OF ALTERNATIVES

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

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

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

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

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

**AVAILABILITY OF CHANGES TO
PROPOSED TEXT**

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

**TITLE 16. BUREAU OF
AUTOMOTIVE REPAIR**

**CONSUMER ASSISTANCE PROGRAM
INCENTIVE INCREASES**

NOTICE IS HEREBY GIVEN that the Bureau of Automotive Repair (Bureau/BAR) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview, 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. The Bureau will, however, 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 Bureau at its office no later than **Tuesday, March 12, 2024, by 5:00 p.m.**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) section 9882 and Health and Safety Code (HSC) sections 44001.5, 44002, 44062.3, 44091, and 44094, and to implement, interpret and make specific HSC sections 44001.3, 44005, 44010.5, 44011, 44012, 44014.2, 44014.7, 44015, 44017, 44017.1, 44037.1, 44062.1, 44062.3, 44091, 44092, 44093, 44094, 44095, and 44125, the Bureau is proposing to adopt the following changes to California Code of Regulations Title 16, Division 33, Chapter 1, Article 11.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The Bureau of Automotive Repair (Bureau/BAR), within the Department of Consumer Affairs, is the state agency charged with implementation and administration of the Smog Check Program. The Program is designed to reduce air pollution from mobile sources, such as passenger vehicles and light-duty trucks.

In order to assist vehicle owners in complying with the provisions of the Smog Check Program, the Bureau is also charged with administering the Consumer Assistance Program (CAP) pursuant to Health and Safety Code (HSC) sections 44062.1 and 44062.3. CAP has two components: Vehicle Retirement Program (VR) and Repair Assistance Program (RA).

Through VR, a vehicle owner can currently retire a failing vehicle for either \$1,000 or \$1,500, if they meet income eligibility requirements. Through RA, a low-income vehicle owner who meets CAP's eligibility requirements and chooses to repair a vehicle after

it fails a biennial Smog Check inspection may receive up to \$900 toward emission related repairs on a 1995 and older vehicle and up to \$1,200 toward emissions–related repairs on a 1996 and newer vehicle at a STAR–certified test–and–repair station operating under an agreement with the Bureau. Both programs reduce air pollution and assist vehicle owners whose vehicles fail the Smog Check inspection.

Over the past four years, inflation increases have reduced participation in the VR program and reduced the scope of repairs that can be made within the RA program. This proposal seeks to restore incentives and contributions to their prior value, preserving the viability of these important air pollution control programs.

Inflation and its Impact on Used Vehicle Prices

Since 2011, general inflation as measured by the Consumer Price Index for All Urban Consumers — All Items (CPI–U) increased by 30%.

From 2010 through 2019 used vehicle prices remained relatively flat and the CPI for Used Cars and Trucks (CPI_{UTC}) was around the same as it was in 2010. This changed in 2020.

Between July of 2020 and July of 2021, used vehicle prices caught up with general inflation. During this period CPI_{UTC} increased abruptly by over 40%. Although used vehicle price increases have begun to moderate, it is unlikely that prices will decrease to 2011 levels.

Impact of Rising Used Car Prices on Vehicle Retirement Programs

While used vehicle prices remained flat during 2010–2019, demand for vehicle retirement exceeded program funding. After used prices started increasing in 2020, vehicle retirements began to decline.

Between July of 2020 and July of 2023, annual CAP vehicle retirements decreased by over 60%. Many motorists find the current incentive is insufficient to assist with the purchase of a replacement vehicle; others find they can sell their vehicle for more than the incentive amount.

Proposal to Raise Incentives and Restore Participation in Vehicle Retirement

Raising incentive amounts is a reasonable option for restoring participation, and it is in keeping with BAR’s statutory authority. Restored participation will support the goal of removing older high–polluting vehicles from California roadways. It will also provide necessary support for the Smog Check Program by assisting consumers to replace failing vehicles.

This proposal will raise the incentive amount based upon the change in the CPI_{UTC} from January 2011 through the first half of 2023. It also provides a process for inflation adjustment every three years beginning in 2028.

Impact of Rising Maintenance and Repair Costs on the Repair Assistance Program

RA helps low–income vehicle owners by making relatively low–cost repairs to vehicles that fail the Smog Check inspection. Many failing vehicles are mechanically sound and can be cost–effectively repaired for far less than the cost of replacing a vehicle. Proper repairs can result in a significant reduction in harmful vehicle emissions and allow owners to register their vehicles with Department of Motor Vehicles with valid Smog Check certifications.

Repair Assistance contributions were last raised in August 2020. Since that time the Consumer Price Index for Motor Vehicle Maintenance and Repair (CPI_{MVMR}) has increased by 22%, which reduces the repairs possible within the repair assistance contribution.

Proposal to Increase Contributions to Ensure the Continued Effectiveness of RA

This proposal restores Repair Assistance contributions to their 2020 value and provides a process for inflation adjustments every three years beginning in 2028.

The Bureau proposes to amend sections 3394.3, 3394.4, and 3394.6 of Article 11 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations (CCR).

Section 3394.3 will:

- Increase Vehicle Retirement program incentives for low–income motorists from \$1,500 to \$2,000.
- Increase Vehicle Retirement program incentives for other motorists from \$1,000 to \$1,350.
- Increase Repair Assistance program contributions to from \$900 to \$1,100 for 1995 and older vehicles and from \$1,200 to \$1,450 for 1996 and newer vehicles.
- Allow BAR to increase Vehicle Retirement incentives once every three years, provided Vehicle Retirement expenditures for the fiscal year preceding the adjustment were less than 90% of that year’s appropriation to the Vehicle Retirement Schedule of the High Polluter Repair or Removal Fund, no appropriation reductions are planned for the fiscal year of the adjustment, and there has been a 10% increase in the related series of the Bureau of Labor Statistics consumer price index since the last adjustment.
- Allow BAR to increase Repair Assistance contributions once every three years, provided Repair Assistance expenditures for the fiscal year preceding the adjustment were less than 90% of that year’s appropriation to the Repair Assistance Schedule of the High Polluter Repair or Removal Fund, no appropriation reductions are planned for the fiscal year of the adjustment, and there has

been a 10% increase in the related series of the Bureau of Labor Statistics consumer price index since the last adjustment.

Section 3394.4 will:

- Remove the eligibility restriction preventing motorists from participating more than once in the Repair Assistance Program.

Section 3394.6 will:

- Unincorporate the CAP application and list the application requirements in regulation.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The amendment to Section 3394.3 will adjust VR incentives and RA contributions for inflation, restoring their value to that which was provided at the time of their last increases in 2011 and 2020 respectively. This will increase program participation and in VR and ensure continued participation in RA. This will also contribute to the continued pollution reduction benefits of both programs.

The amendment provides a mechanism to periodically increase incentive amounts in order to keep the value of retirement incentives and repair assistance contributions constant, stabilizing program participation. This mechanism will decrease the need for unnecessary regulatory filings.

This proposal will allow the Bureau to evaluate and adjust VR incentives and RA contribution amounts once every three years, beginning in July 2028, based upon inflation, program expenditures, and the stability of VR and RA appropriation. It will compensate for any significant price inflation (over 10%) as measured from the time of the last adjustment. If that measurement is under 10% on the designated date, there would be no change in incentive amount for the next three years.

The three-year period has been chosen to coincide with the timing of BAR's dismantler contracts which expire every three years. This will reduce the costs of implementing the adjustments.

The adjustment will be made based upon the changes in annual CPI_{UTC} and CPI_{MVMR} indexes between the year prior to the adjustment and the year prior to the last adjustment. This should mitigate the impact of any short-term index volatility.

The amendment to Section 3394.4 will help additional low-income motorists repair their vehicles to pass their biennial Smog Check. It reduces air pollution while allowing low-income participants to meet vital transportation needs.

Currently, many of the individuals who need this program the most are excluded because they previously participated in the RA program with the same vehicle. This restriction no longer serves a purpose.

This proposal would eliminate the RA program eligibility restriction and allow low-income motorists to participate more than once with the same vehicle.

The number of times a low-income person or vehicle may participate in the RA program is not limited by statute.

Section 3394.6 will establish the required information in regulation for those applying for Vehicle Retirement, the Bureau is providing a more straightforward and transparent application process.

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 inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The proposed regulations are intended to increase financial incentives for individuals to participate in the CAP.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Bureau anticipates the proposed regulatory action will result in program expenditures beginning in 2024–25 as follows:

- Vehicle Retirement:
 - 2024–25 through 2027–28 — \$34.7 million annually
- Repair Assistance:
 - 2024–25 through 2027–28 — \$5.9 to \$6.7 million annually

Because the Bureau is currently administering the CAP, the regulations do not result in additional workload or costs related to the implementation, administration, and enforcement of the proposed regulatory changes.

BAR does not have an estimate of costs related to future CPI adjustments at this time, but notes, the CPI adjustments are intended to sustain the CAP as a viable option for Californians against escalating prices for used vehicles.

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Effect on Housing Costs: None.

Business Impact:

BAR has made the initial determination that the proposed regulations will not have a significant state-wide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States. The initial determination is based on the fact that this proposal is designed to increase the number of participants in the CAP. If anything, this proposal will provide a minor increase in business revenue due to increasing incentive amounts and allowing the same vehicle to participate in the CAP more than once.

Cost Impact on Representative Private Person or Business:

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

Business Reporting Requirements:

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

Effect on Housing Costs: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

This regulatory proposal is intended to increase financial incentives for individuals to participate in the CAP and may increase revenues for business providing these services.

The regulations will increase incentives per vehicle as follows:

Vehicle Retirement:

- Low Income: Increase from \$1,500 to \$2,000
- All Others: \$1,000 to \$1,350
- Includes Consumer Price Index escalator beginning 2028

Repair Assistance:

- Model Year 1976–1995 Vehicles: Increase from \$900 to \$1,100
- Model Year 1996 or newer Vehicles: Increase from \$1200 to \$1,450
- Includes Consumer Price Index escalator beginning 2028
- Removes prohibition of previous participants from re-applying

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

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it simply increases VR amounts, allows a vehicle to participate in RA more than once, and adds application components in regulation.
- It will not create or eliminate jobs or create new business or eliminate existing businesses within the State of California because it simply increases VR amounts, allows a vehicle to participate in RA more than once, and adds application components in regulation.
- It will not affect the expansion of businesses currently doing business within the State of California because it simply increases VR amounts, allows a vehicle to participate in RA more than once, and adds application components in regulation.
- It will not create new business or eliminate existing businesses within the State of California because it simply increases VR amounts, allows a vehicle to participate in RA more than once, and adds application components in regulation.
- It will not affect the expansion of businesses currently doing business within the State of California because it simply increases VR amounts, allows a vehicle to participate in RA more than once, and adds application components in regulation.
- This regulatory proposal benefits the health and welfare of California citizens because it will reduce the number of polluting cars on California roads and highways. Also, applicants will know what will be requested on the application.
- This regulatory proposal does not affect worker safety because it is not relevant to worker safety.
- This regulatory proposal has a positive affect the State’s environment because it will reduce the number of polluting cars on California roads and highways.

EFFECT ON SMALL BUSINESS

These proposed regulations will likely increase revenue for STAR Test and Repair stations, which are typically small businesses due to increased RA participants.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), BAR must determine that no reasonable alternative to this proposed regulatory action 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 proposal described

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

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

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Bureau 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, 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, 10949 North Mather Boulevard, Rancho Cordova, California 95670.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Bureau, 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 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.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to: The backup contact person is:

Holly O'Connor
Bureau of Automotive Repair
10949 North Mather Blvd.
Rancho Cordova, CA 95670
Telephone: (916) 403-8600
Email: Holly.OConnor@dca.ca.gov

Kayla Shelton
Bureau of Automotive Repair
10949 North Mather Blvd.
Rancho Cordova, CA 95670
Telephone: (916) 403-8600
Email: Kayla.Shelton@dca.ca.gov

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.

MPP. DEPARTMENT OF SOCIAL SERVICES

ORD #0723-08

ITEM # EARLY ELIGIBILITY AND REPORTING REQUIREMENTS FOR PREGNANCY AND INCREASE TO THE PREGNANCY SPECIAL NEED (PSN) PAYMENT AMOUNT

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

11346.8, and a public hearing will be held. Requests for a public hearing should be sent to:

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

Statements or arguments relating to the proposals may be submitted in writing, email, or by facsimile to the address/number listed above. All comments must be received by March 12, 2024.

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

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

CHAPTERS

CDSS Manual of Policies and Procedures, Sections 44-211, 44-316, 80-301 and 82-836.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Work Opportunity and Responsibility to Kids (CalWORKs) is a public assistance program that provides cash aid and services to eligible families that have a child(ren) in the home.

The proposed changes to the pregnancy regulations as implemented by AB 135 (Chapter 85, Statutes of

2021), AB 172 (Chapter 696, Statutes of 2021), and SB 187 (Chapter 50, Statutes of 2022) are as follows:

- Pregnant person only (PPO) applicants are eligible to receive CalWORKs aid from the date of application regardless of pregnancy trimester, provided they meet all other conditions of eligibility.
- Allows a PPO applicant who cannot provide medical verification of pregnancy at the time of application to submit a sworn statement or verbal attestation to verify the pregnancy. Medical verification would still be required within 30 working days following submittal of the sworn statement or verbal attestation.
- Requires recipients to report to the county welfare department (CWD), verbally or in writing, within 30 days following the end of their pregnancy.
- Allows pregnant recipients who cannot provide medical verification of pregnancy to submit a sworn statement or verbal attestation to verify the pregnancy to issue the pregnancy special need payment. Medical verification would still be required within 30 working days following submittal of the sworn statement or verbal attestation.
- Requires CWDs to provide information about, and referral to mental health services, including, but not limited to, services provided by the county human services agency.
- Increases the monthly pregnancy special needs payment (PSN) to \$100.
- Allows the use of sworn statement or verbal attestation for pregnant person applicants to be determined apparently eligible for temporary homeless shelter payment.

The benefits of this regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: AB 135 and AB 172 expands eligibility for CalWORKs aid for PPO applicants effective July 1, 2022, and authorizes all PPO applicants to initially satisfy the pregnancy verification requirement by means of a sworn statement or, if necessary, a verbal attestation. Applicants who provided a sworn statement, or verbal attestation, shall be required to provide medical verification of pregnancy within 30 working days following submittal of the sworn statement/verbal attestation for benefits to continue. Additionally, AB 135 increases the monthly PSN payment to \$100 effective May 1, 2022, which better reflects current economic inflation and benefits recipients experiencing poverty.

AB 135 also aims to increase health outcomes for PPO applicants by allowing more convenient eligibility options. PPO applicants will have access to earlier pregnancy referrals and services and may also be considered for the Home Visiting Program (HVP). HVP supports positive health, development and well-being

outcomes for pregnant and parenting individuals, families, and infants born into poverty. In addition, SB 187 provides PPO applicants easier access to homeless services. There are no anticipated benefits to worker safety or the state’s environment.

The department conducted a review of existing regulations and evaluated the proposed regulations for any inconsistency or incompatibility. The proposed regulations are neither inconsistent nor incompatible with existing state regulations but do fulfill the intent of the legislation in enacting AB 135, AB 172, and SB 187.

COST ESTIMATE

1. **Costs or Savings to State Agencies:** There is no fiscal impact from these regulations beyond what is already budgeted and enacted in statute. The 2023–24 Governor’s Budget includes \$4,517,000 for assistance and \$51,000 for services, totaling \$4,568,000 for Reforming CalWORKs Aid to Pregnant Parents.
2. **Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500–17630:** N/A
3. **Nondiscretionary Costs or Savings to Local Agencies:** There is no fiscal impact from these regulations beyond what is already budgeted and enacted in statute. The 2023–24 Governor’s Budget includes \$405,000 for assistance for Reforming CalWORKs Aid to Pregnant Parents.
4. **Federal Funding to State Agencies:** There is no fiscal impact from these regulations beyond what is already budgeted and enacted in statute. The 2023–24 Governor’s Budget includes \$11,281,000 for assistance and \$1,375,000 for services, totaling \$12,656,000 for Reforming CalWORKs Aid to Pregnant Parents.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local county welfare agencies. There are no “state-mandated local costs” in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting

businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the proposed regulatory action, which was designed to impact the CalWORKs population to aid and strengthen needy families towards achieving economic self-sufficiency.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This regulatory action is designed to impact only the CalWORKs population in order to aid and strengthen needy families and there are no known expected costs associated to the individuals.

SMALL BUSINESS IMPACT STATEMENT

The Department has determined that there is no impact on small businesses because of filing these regulations because these regulations are only applicable to state and county agencies. These regulations are mandated by AB 135 and AB 172 and are applicable to CalWORKs recipients; therefore, they do not have a cost impact on the private sector, including small businesses.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The implementation of this regulatory action will benefit CalWORKs by allowing PPO applicants to become aided as of the application date which may improve pregnancy health outcomes. PPO applicants will have access to earlier pregnancy referrals and services and may also be considered for the HVP. HVP supports positive health, development and well-being outcomes for pregnant and parenting individuals, families, and infants born into poverty. Additionally, the PSN payment was increased to \$100. This reflects better current economic inflation and benefits recipients experiencing poverty.

STATEMENT OF EFFECT ON HOUSING COSTS

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

STATEMENT OF
ALTERNATIVES CONSIDERED

In developing the regulatory action, the Department did not consider any other alternatives as there were no other alternatives proposed. These regulations are mandated by Welfare and Institutions Code sections 11450 adopted and/or amended by AB 135 and AB 172.

The Department must determine that no other reasonable alternative was identified and brought to the attention of the Department that would be more effective in carrying out the purpose for which the regulations are proposed or would be less burdensome to affected private persons that the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AUTHORITY AND
REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Section 11450, Welfare and Institutions Code. Subject regulations implement and make specific Sections 11450 and 11004, Welfare and Institutions Code.

CDSS REPRESENTATIVE REGARDING
THE RULEMAKING PROCESS OF THE
PROPOSED REGULATION

Contact Person: Everardo Vaca (916) 657-2586

Backup: Oliver Chu (916) 657-2586

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code section 11346.4.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

PROPOSED PROJECT ON A FULLY
PROTECTED SPECIES
DEER ISLAND BASIN COMPLEX TIDAL
WETLAND RESTORATION PROJECT —
PHASE 1 BIRD PONDS
RMP-2023-0011-R3
COUNTY OF MARIN

The Department of Fish and Wildlife (CDFW) received a project proposal on December 4th, 2023 from the Marin County Flood Control and Water Conservation District requesting authorization to take the fully protected California black rail (*Laterallus jamaicensis corturniculus*), fully protected California Ridgway's rail (*Rallus longirostris absoluteus*), and fully protected Salt-marsh harvest mouse (*Reithrodontomys ravyentris*) 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 County Flood Control and Water Conservation District proposes to restore tidal wetland habitats for special-status species by providing full tidal connectivity to diked areas along Novato Creek. The Novato Creek channel will be widened and new side channels will be created. Adjacent levees will be lowered to create a range of marsh habitats that are inundated at different flows/tides. These levees will also be breached in multiple spots to increase tidal conveyance and sediment delivery to the ponds. Over time, the increased tidal conveyance and sediment delivery is anticipated to allow the ponds to evolve into a mosaic of tidal wetlands and channel habitat. The Lynwood Levee, to the project's south, will be regraded to create a gradient of habitats, including upland, marsh, mudflat, and subtidal habitats. Additionally, flood-protection levees bounding the restoration site will be improved as part of the project. The Project is

expected to result in an increase in 8.2 acres of tidal marsh, 5.8 acres of tidal channel, 22.0 acres of tidal open water, and 3.5 acres of transitional zone habitat. Proposed activities will include, but are not limited to, excavation of the Novato Creek channel and new side channels; lowering, removing, breaching, raising, and stabilizing existing levees; construction of ecotone habitats along existing levees; dewatering of the ponds. The proposed project will occur in the Deer Island Basin Complex, within the limits of the City of Novato, in the County of Marin, State of California; Latitude 38.094218 and Longitude -122.546199. CDFW intends to issue, under specified conditions, a Restoration Management Permit (RMP) to authorize the applicant 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 25, 2024 for an initial and extendable term of 5 years.

PETITION DECISION

BOARD OF PAROLE HEARINGS

RESPONSE TO REQUEST FOR RECONSIDERATION OF PETITION TO ADOPT, AMEND, OR REPEAL A REGULATION PURSUANT TO GOVERNMENT CODE SECTIONS 11340.6 AND 11340.7

BPH PETITION RECONSIDERATION RESPONSE 2023-02-R-01

On December 11, 2023, the Board of Parole Hearings (Board) received a Request to Reconsider Petition to Adopt, Amend, or Repeal a Regulation under Government Code sections 11340.6 and 11340.7, previously identified as BPH Response 2023-02 from the original petitioner, Henry Mitchell.

The Board’s original response, identified as BPH Response 2023-02, was published in the Office of Administrative Law’s notice register on December 8, 2023. Since this request for reconsideration was received within 60 days from the date of the original petition, in accordance with subdivision (c) of section 11340.7, this document serves as the Board’s response to the petitioner’s request for reconsideration.

The following information is provided with the response in compliance with subdivision (d) of Government Code section 11340.7:

1. **NAME OF AGENCY:** Board of Parole Hearings
2. **PARTY SUBMITTING THE PETITION:** Henry Mitchell (V16058)
3. **PROVISIONS OF THE CALIFORNIA CODE OF REGULATIONS REQUESTED TO BE AFFECTED:** Petitioner requests the Board to adopt sections 2850 and 2851 to the California Code of Regulations, title 15, division 2, thereby reinstating certain provisions previously contained in repealed section 2817, concerning the Board’s executive clemency procedures to refer persons sentenced to life without the possibility of parole (“LWOP”) to the Governor for a commutation.
4. **REFERENCE TO AUTHORITY TO TAKE THE ACTION:** Petitioner did not cite to any authority for the Board to take the requested regulatory action. However, in Petitioner’s original petition, dated October 26, 2023, Petitioner cited to title 15 of the California Code of Regulations and Penal Code sections 3041, 3052, and 5076.2. The Board has general rulemaking authority under Government Code section 12838.4 and Penal Code sections 3052 and 5076.2 to promulgate, amend, or repeal regulations in division 2 of title 15 of the California Code of Regulations.
5. **REASONS SUPPORTING THE AGENCY’S DECISION:** Petitioner maintains that the Board should add sections 2850 and 2851 to division 2 of title 15 of the California Code of Regulations, thereby reinstating clemency provisions previously contained in section 2817, which were repealed in 1994. **Petitioner’s request is DENIED.**

Petitioner asserts that the Board should adopt proposed sections 2850 and 2851 to be consistent with the Pardon and Commutation Reform Act of 2018. Specifically, petitioner argues that the Board has the authority to investigate and refer cases without gubernatorial request.

The Board is not contesting its authority to investigate possible pardon or commutation cases without

gubernatorial request. The Board does not disagree with the petitioner on this issue; the Penal Code provides the authority for the Board to independently investigate possible cases for pardon and commutation referrals to the Governor. Rather, the Board argues that it is not *required* to conduct investigations absent a gubernatorial referral or request and the proposed regulations would require the Board to investigate case where the person was sentenced to life without the possibility of parole for no more than one felony conviction. Therefore, regulations dictating procedures for a Board-initiated referral and investigatory process that is not statutorily required is not necessary. Accordingly, it is not necessary for the Board to adopt proposed sections 2850 and 2851 to remain consistent with existing law.

Further, the only statutory mandate for the Board to conduct an investigation is when the Governor refers a case to the Board involving those convicted of multiple felonies or upon request by the Governor. (Pen. Code, §§ 4802, 4813; Cal. Code Regs., title 15, § 2818.) This is why the Board currently has regulations concerning investigatory procedures in these circumstances. Absent a statutory mandate, the Board’s authority to investigate and refer cases to the Governor is voluntary, and therefore, do not necessitate regulations at this time.

Petitioner asserts that the Board’s Comprehensive Risk Assessments (CRA) should not be used to assess risk due to its “systemic and prejudicial application” to incarcerated persons.

Petitioner discussed historical events concerning CRAs that are no longer valid. Over time, CRAs have been improved to incorporate static and dynamic factors, evaluate an individual’s criminogenic risk factors, and determine what risk factors are currently relevant for that individual. CRAs are a key resource for parole hearing panels to assess risk, and there is no evidence supporting petitioner’s claim that the use of CRAs is subject to “systemic and prejudicial application.”

The Board also promulgated regulations that went into effect on November 24, 2011, regulating the CRA process. (Cal. Code Regs., title 15, § 2240 et seq.) Key provisions allow for incarcerated persons and their attorneys to identify alleged errors, the Board to review and correct errors, and multi-layered review of the CRA before it is finalized. CRAs are also prepared if more than three years has passed since the most recent CRA became final, which ensures that risk assessments remain relevant and are not based on stale information and observations.

Petitioner asserts that the Board and the California Department of Corrections and Rehabilitation are not facing a budget shortfall.

As stated in its original response, section 2817 of the Board’s regulations was repealed due to a num-

ber of reasons, which included the fact that clemency referral procedures were not mandated by statute and secondarily, became a fiscally burdensome process at that time. The elimination of fiscal shortfall does not then require the Board to adopt processes or regulations that are not statutorily mandated. Further, the State of California is currently facing a historic budget shortfall. State departments, including the Board, are required to freeze all spending that is not necessary to meet its daily business operations and requirements under the law, and the Board is awaiting the Governor’s proposed budget for 2023–2024 to determine the longer term impact of the shortfall. Therefore, fiscal shortfall remains a legitimate and relevant issue.

Petitioner asserts that the Board should adopt the Committee on Revision of the Penal Code’s (“the committee”) recommendation to create a review process for persons sentenced to LWOP for clemency recommendations to the Governor.

The committee’s recommendation does not constitute legal authority for the Board to recommend a person for clemency to the Governor; that authority is vested in Penal Code section 4801. As discussed in the Board’s original response, section 2817 was repealed because the investigation and hearing processes were not necessary to effectuate Penal Code section 4801. At this time, the Board declines adopt the review process in the proposed regulations for persons sentenced to LWOP for clemency recommendations to the Governor.

For the reasons articulated above, the Board denies petitioner’s request for reconsideration of their petition.

6. BOARD CONTACT PERSON:

Chancellor Veal
 Senior Staff Attorney
 Board of Parole Hearings
 P.O. Box 4036
 Sacramento, CA 95812–4036
 Office: (916) 445–4072
BPH.Regulations@cdcr.ca.gov

7. NOTICE TO INTERESTED PERSONS: Under subdivision (d) of Government Code section 11340.7, the Board will provide a copy of this decision to the Office of Administrative Law for publication in the California Regulatory Notice Register. Any interested persons have the right to obtain a copy of the petition that is the subject of this decision by sending a request to the Board.

In submitting such a request, please reference **BPH PETITION RECONSIDERATION RESPONSE 2023–02–R–01** in the request.

DATE OF DECISION: January 10, 2024.

**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 # 2023–1130–03
Group Homes for Children with Special Healthcare Needs

This action makes permanent the emergency regulatory actions that added a new Subchapter 7, Articles 1 through 6, concerning Group Homes for Children with Special Health Care Needs, to Chapter 5 of Division 6 of Title 22 of the California Code of Regulations. Articles 1 through 6 of Subchapter 7 are also printed in the Department of Social Services Manual of Policies and Procedures.

Title 22, MPP
Adopt: 84700, 84701, 84710.2, 84718, 84720, 84722, 84723, 84740, 84742, 84761, 84764, 84765, 84765.5, 84766, 84769.2, 84770, 84772, 84775, 84775.1, 84787
Amend: 80061, 80068.2
Filed 01/11/2024
Effective 01/11/2024
Agency Contact:
Kenneth Jennings (916) 216–5845

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

Commission on Peace Officer Standards and Training
File # 2023–1218–01
Amend Commission Regulations 1953 and 1959

This action without regulatory effect by the Commission on Peace Officer Standards and Training (hereafter POST) amends POST’s Forms 2–251 and 2–255 (the Personal History Statement — Peace Officer and the POST Personal History Statement — Public Safety Dispatcher, respectively) to conform them to Government Code section 12954 (as amended by Senate Bill 700, Chapter 408, Stats. 2023) concerning employment discrimination based on an individual’s use of cannabis off the job and away from the workplace.

Title 11
Amend: 1953, 1959
Filed 01/17/2024
Agency Contact: Melani Singley (916) 227–4258

Department of Food and Agriculture
File # 2023–1206–01
Oriental Fruit Fly Interior Quarantine and Eradication Area

In this rulemaking action, the California Department of Food and Agriculture (CDFA) is combining lists of plants subject to the Oriental Fruit Fly (OFF) Interior Quarantine into one location. CDFA is also adding new plants which are subject to the United States Department of Agriculture’s OFF quarantine to the California OFF quarantine list. Finally, CDFA is removing duplicative references to plants from the OFF quarantine list which were mistakenly listed twice.

Title 03
Amend: 3423, 3591.2
Filed 01/12/2024
Effective 04/01/2024
Agency Contact: Rachel Avila (916) 698–2947

Department of Managed Health Care
File # 2023–1129–02
Mental Health and Substance Use Disorder Coverage Requirements

This action implements Senate Bill 855 (Stats. 2020, chapter 151). This action improves access to mental health and substance use disorder medical services by ensuring enrollees have access to necessary mental health and substance use disorder providers and that health plans conduct appropriate prior authorization requests and utilization management reviews of requested medical services. It also addresses inadequate

networks of appropriate providers for these medical conditions.

Title 28

Adopt: 1300.74.72, 1300.74.72.01, 1300.74.721

Repeal: 1300.74.72

Filed 01/12/2024

Effective 04/01/2024

Agency Contact: Jennifer Willis (916) 324-9014

Dental Hygiene Board of California

File # 2023-1206-02

Temporary Licensure (Military Spouses or Partners)

Prior to the enactment of Assembly Bill 107 (Salas, chapter 693, Stats. of 2021) (“AB 107”), existing law required specific boards — not including the Dental Hygiene Board of California (“DHBC”) — within the Department of Consumer Affairs (“DCA”) to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements. These requirements included supplying evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders. AB 107 expanded the requirement to issue temporary licenses to practice a profession or vocation to include licenses issued by any board within DCA and amended Business and Professions Code section 115.6 to include DHBC. In this regular rulemaking DHBC is implementing, interpreting, and making specific these statutory changes made by AB 107.

Title 16

Adopt: 1114

Filed 01/17/2024

Effective 04/01/2024

Agency Contact:

Adina Pineschi-Petty (916) 576-5002

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 pertaining 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

Department of Human Resources

File # 2023-1201-02

Contracts Bidding Process

This action by the Department of Human Resources amends contract bidding procedures for the Savings Plus Program in accordance with Public Contract Code section 10344.1.

Title 02

Amend: 599.943

Filed 01/17/2024

Effective 04/01/2024

Agency Contact: Joseph Mesich (916) 909-3269

Office of Administrative Law

File # 2024-0110-01

Submission of Documents to OAL

This action by the Office of Administrative Law (“OAL”) reduces the number of hard-copy and electronic documents required for submission of certified regulation text to OAL.

Title 01

Amend: 6, 6.5, 8

Filed 01/12/2024

Effective 01/12/2024

Agency Contact: Thanh Huynh (916) 323-6225

**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.