



# 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**

Andrea Peters, Regulation Coordinator  
 California Public Employees’ Retirement System  
 P.O. Box 942720  
 Sacramento, CA 94229–2720  
 Telephone: (916) 795–3038

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

**TITLE 2. PUBLIC EMPLOYEES’ RETIREMENT SYSTEM**

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees’ Retirement System (CalPERS) proposes to take the regulatory action described below in the Informative Digest after considering public comments, objections, or recommendations regarding the proposed regulatory action.

**I. PROPOSED REGULATORY ACTION**

In this filing, the Board proposes amending section 574, “Definition of Full–Time Employment,” of Article 4 of Subchapter 1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (hereinafter referred to as CCR section 574) and the title of section 574 to “Definition *and Reporting* of Full–Time Employment.” By proposing this regulatory amendment in this Article, CalPERS seeks to describe how a classified member’s full–time payrate shall be reported to CalPERS in accordance with Government Code (GC) section 20636.1. The proposed regulatory amendment would explicitly define how to determine a classified member’s hourly, daily, and monthly full–time equivalent (FTE) payrates and provide clarity and uniformity for CalPERS, its classified members, and CalPERS–covered school employers in reporting a classified member’s full–time payrate to CalPERS.

**II. WRITTEN COMMENT PERIOD**

Any interested person, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period has been established as commencing on April 22, 2024 and closing at 11:59 p.m. on June 6, 2024. The Regulation Coordinator must receive all written comments by the close of the comment period. Comments may be submitted by email to [RegulationCoordinator@calpers.ca.gov](mailto:RegulationCoordinator@calpers.ca.gov) or mailed to the following address:

**III. PUBLIC HEARING**

A public hearing will not be scheduled unless an interested person, or his or her duly authorized representative, submits a written request for a public hearing to CalPERS no later than 15 days before the close of the written comment period. Notice of the time, date, and place of the hearing will be provided to every person who has filed a request for notice with CalPERS.

**IV. ACCESS TO HEARING ROOM**

The hearing room will be accessible to persons with mobility impairments, and the room can be made accessible to persons with hearing or visual impairments upon advance request to the CalPERS Regulation Coordinator.

**V. AUTHORITY AND REFERENCE**

Under GC section 20121, the Board has authority to make rules as it deems proper. GC sections 20630, 20635.1, 20636.1, and 20967 govern compensation, overtime compensation, and compensation earnable for classified members.

**VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

GC section 20636.1 defines full–time employment for classified members as “40 hours per week” and further states that “payments for services rendered, not to exceed 40 hours per week, shall be reported as compensation earnable for all months of the year in which work is performed.” Under GC section 20636.1, “classified members” means members who retain membership under CalPERS while employed with a CalPERS–covered school employer in positions not subject to coverage under the Defined Benefit Program under the State Teachers’ Retirement System.

In 2019, CalPERS promulgated CCR section 574 to define “full–time” employment for purposes of determining CalPERS membership eligibility, reporting overtime positions, and determining compensation earnable and pensionable compensation. Consistent with GC section 20636.1, the regulation provides that full–time employment for classified members means 40 hours per week.

While GC section 20636.1 and CCR section 574 standardized the definition of full–time employment

for classified members, it is necessary to describe how CalPERS-covered school employers determine full-time payrates for purposes of reporting payrates to CalPERS. For example, some CalPERS-covered school employers report classified members' earnings as payrate, but the earnings are not based on a 40-hour work week. Since GC section 20636.1 explicitly defines full-time employment as 40 hours per week, the full-time payrate reported to CalPERS must be based on a 40-hour work week regardless of whether the classified member works 40 hours per week.

CalPERS allows CalPERS-covered employers to report full-time payrates as hourly, daily, or monthly. By proposing this regulatory amendment, the Board seeks to explicitly define how to determine a classified member's hourly, daily, and monthly FTE payrates. This proposed regulatory amendment is intended to benefit CalPERS, its classified members, and CalPERS-covered school employers by providing clarity and uniformity for reporting a classified member's full-time payrate to CalPERS.

*Consistency Evaluation*

CalPERS conducted a review for any related state regulation and found that there are no other state regulations defining how a CalPERS-covered school employer shall report a classified member's hourly, daily, or monthly FTE payrate to CalPERS for purposes of reporting a classified member's full-time payrate in accordance with GC section 20636.1. Therefore, CalPERS has determined that the proposed regulatory amendment is not inconsistent or incompatible with existing regulations.

**VII. PRE-NOTICE CONSULTATION WITH THE PUBLIC**

No pre-notice consultation was done with the public, as all public comments and hearing requests can be submitted during the written comment period.

**VIII. EFFECT ON SMALL BUSINESS**

The proposed regulatory action does not affect small businesses because it applies only to CalPERS-covered school employers and classified members.

**IX. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION**

The Board has made the following initial determinations:

A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory amendment does not impose any mandates on local agencies or school districts. CalPERS already requires CalPERS-covered employers to report

the full-time payrates for their employees to CalPERS. This proposed regulatory amendment describes how CalPERS-covered school employers shall determine the hourly, daily, and monthly FTE payrates for purposes of reporting a classified member's full-time payrate to CalPERS in accordance with GC section 20636.1.

- B. **COSTS OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory amendment will not result in any costs or savings to any state agency.
- C. **COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory amendment will not result in any costs to any local agency or school district. CalPERS already requires CalPERS-covered employers to report the full-time payrates for their employees to CalPERS. This proposed regulatory amendment describes how CalPERS-covered school employers shall determine the hourly, daily, and monthly FTE payrates for purposes of reporting a classified member's full-time payrate to CalPERS in accordance with GC section 20636.1.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory amendment does not impose any nondiscretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory amendment will not result in costs or savings in federal funding to the State of California.
- F. **ADVERSE ECONOMIC IMPACT:** The proposed regulatory amendment 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.
- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that a representative private person or business would incur in reasonable compliance with the proposed regulatory amendment because the proposed regulatory amendment only applies to CalPERS, CalPERS-covered school employers, and classified members and does not impose new costs on school employers.
- H. **RESULTS OF THE ECONOMIC IMPACT ANALYSIS:** The proposed regulatory amendment is not intended to create or eliminate jobs within California; and will not (1) create new businesses or eliminate existing businesses within California; (2) affect the expansion of businesses currently doing business within California; (3) affect the health and welfare of California resi-

dents, worker safety, or the State’s environment. The proposed regulatory amendment serves only to describe how CalPERS–covered school employers shall determine the hourly, daily, and monthly FTE payrates for purposes of reporting a classified member’s full–time payrate to CalPERS in accordance with GC section 20636.1.

- I. EFFECT ON HOUSING COSTS: The proposed regulatory amendment will have no effect on housing costs.
- J. COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 17500 THROUGH 17630: There are no costs to any local agency or school district which must be reimbursed in accordance with GC section 17500 through section 17630.

**X. CONSIDERATION OF ALTERNATIVES**

In accordance with GC section 11346.5(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 of the proposed action,
- as effective as, and less burdensome to affected private persons than the proposed action, or
- more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

**XI. CONTACT PERSON**

Please direct inquiries concerning the proposed administrative action to:

Andrea Peters, Regulation Coordinator  
 California Public Employees’ Retirement System  
 P.O. Box 942720  
 Sacramento, CA 94229–2720  
 Telephone: (916) 795–3038  
[Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov)

The backup contact person for the proposed action is:

Melissa Ilusorio, Regulation Coordinator  
 California Public Employees’ Retirement System  
 P.O. Box 942720  
 Sacramento, CA 94229–2720  
 Telephone: (916) 795–3038

[Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov)

Please direct requests for copies of the proposed amended text of the regulation, the Initial Statement of Reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to the Regulation Coordinator at the contact information listed above.

**XII. AVAILABILITY OF THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDED REGULATION, AND RULEMAKING FILE**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at 400 Q Street, Sacramento, CA 95811. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed amended text of the regulation, and the Initial Statement of Reasons. Copies may be obtained by contacting the CalPERS Regulation Coordinator at the contact information listed in Section XI.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS’ website at: <https://www.calpers.ca.gov/page/about/laws-legislation-regulations/regulatory-actions>.

**XIII. AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After receiving comments from the public and considering all timely and relevant comments received, the Board may adopt the proposed regulatory amendment substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed amended text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the amended regulation as revised. Please send requests for copies of any modified regulation to the attention of the CalPERS Regulation Coordinator at the contact information listed in Section XI. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.



XIV. AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the CalPERS Regulation Coordinator at the contact information listed in Section XI.

**TITLE 5. BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**

DATE OF CLOSURE SELECTION

**NOTICE IS HEREBY GIVEN** that the Bureau for Private Postsecondary Education (hereinafter “Bureau”), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest after considering all relevant 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 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 5:00 p.m. on Tuesday, June 4, 2024**, or must be received by the Bureau at the hearing should one be held.

AUTHORITY AND REFERENCE

Authority cited: Sections 94803, 94877, and 94885 of the Education Code (Ed. Code). References cited: Sections 94874.5, 94909, 94911, 94923, 94926, 94926.5, 94927, 94927.5 and 94940 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Bureau for Private Postsecondary Education (Bureau) protects students and consumers through the regulatory oversight of California’s private postsec-

ondary educational institutions (“institutions”) pursuant to the California Private Postsecondary Education Act of 2009 (“Act” — Ed. Code, §§ 94800–94950), including conducting qualitative reviews of educational programs and operating standards.

Existing law at Education Code section 94926 and 5 CCR<sup>1</sup> section 76240 requires institutions that are anticipating closure to provide notice to the Bureau and to supply both a date of closure and a last date of instruction. However, the statutes and regulations provide no guidance to the Bureau if an institution fails to comply. There have been many instances of an institution suddenly closing without providing any notice to the Bureau, and since the institution has ceased operating there is no way for the Bureau to sanction the institution’s owners or operators for failing to comply with section 76240, because the institution is no longer within the Bureau’s jurisdiction.

Establishing a date of closure for an institution is crucial for an impacted student to be eligible for compensation from the Student Tuition Recovery Fund (STRF), which the State of California created for students in the event of an institution closing before the student completing their educational program and the student suffering economic harm. Knowing an institution’s date of closure is also critical for a student to apply for student loan relief under federal Student Financial Aid Programs authorized by Title IV of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070 et seq. — federal Higher Education Act of 1965).

In 2022 the legislature passed, and the Governor signed, Senate Bill (SB) 1433 (Roth, Chapter 544, Statutes of 2022), which added Education Code section 94926.5 to the Code. Section 94926.5 provides, “(a) An institution’s approval to operate is automatically terminated on the date of closure or when its exemption from this chapter has been verified by the bureau.

- (b) An institution that does not identify a date of closure shall have one selected by the bureau.
- (c) A terminated license shall not be reinstated.”

To address the problems stated above, the Bureau has drafted the following proposed regulatory changes:

Amending Section 76240 of the CCR to:

- Add “calendar” before the word “days”
- Add that “an authorized representative” shall notify the Bureau of an institution’s intent to close in writing “at the email address [BPPE.closeschools@dca.ca.gov](mailto:BPPE.closeschools@dca.ca.gov) or by mail to the mailing address per CCR section 70020”
- Add a definition for “authorized representative”

<sup>1</sup> Unless otherwise noted, all references to the CCR hereafter are to Title 5.

- Add additional clarifications to the information required to be included in the closure plan
- Add additional information that an institution shall provide the Bureau if any student will not complete their educational program as a result of closure
- Move and edit requirements pertaining to teach out plans and refunds, student records, and how an institution will notify students affected by closure
- Move and edit requirements pertaining to how institution will provide notice to students affected by closure
- Add additional information required for institutions to provide the Bureau regarding the written notice of closure provided by the institution to students

Add Section 76245: Closure Date Selection and Automatic Termination of Approval to Operate

- This section will require the Bureau to send a notice to institutions the Bureau believes has closed without notifying the Bureau of a date of closure.
- The notice will request a response from an authorized representative to confirm whether the institution is operating or closed, and that the Bureau will select a date of closure if the Bureau does not receive a response, as well as how an institution may appeal the selection of a date of closure.

The proposed regulations improve the institutional closure process in two ways. First, it provides guidance to institutions that do supply a date of closure to the Bureau by establishing that the date of closure should in most cases be the same as the last date of instruction. Second, when the Bureau believes that an institution has closed without notifying the Bureau, it provides the means for the Bureau to select a date of closure for the institution and terminate the institution’s approval to operate.

**Anticipated Benefits of Proposal**

The proposed regulatory language will allow the Bureau to designate a date of closure for institutions that close without providing one to the Bureau. This will benefit the welfare of students by enabling students enrolled at those institutions to establish eligibility for compensation from STRF as well as apply for student loan relief from the federal Title IV financial aid programs. The proposed regulatory language will also implement the statutory language of Education Code section 94926.5, which will help ensure that the will of the legislature is effective by reconciling statutory language and regulatory language. This regulation will allow the Bureau to enforce provisions of the Act and further the Bureau’s mission of consumer protection for students seeking educational services from postsecondary institutions by helping to ensure

that approved institutions comply with all legal requirements for operating an approved institution in California.

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

**Consistency and Compatibility with Existing State Regulations**

During the process of developing this regulatory proposal, the Bureau 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 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 Bureau estimates 100 institutions will close per year of which 20 institutions will fail to fully comply with the notification requirements, as specified.

As a result, the proposed regulations are estimated to result in workload and costs ranging from approximately \$8,500 to 11,000 per year and up to \$97,000 over a ten-year period.

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

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

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

**Mandate Imposed on Local Agencies or School Districts:** None.

**Cost to Any Local Agency or School District for Which Section 17561–17630 Require Reimbursement:** None.

**Effect on Housing Costs:** None.

BUSINESS IMPACT ESTIMATES

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

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

The Bureau estimates 100 institutions will close per year of which 20 institutions will fail to fully comply with the notification requirements, as specified.

As a result, the proposed regulations are estimated to result in an economic impact to these institutions up

to approximately \$9,300 per year and \$93,000 over a ten-year period.

**RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS**

**Impact on Jobs/New Business:**

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

**Benefits of Regulation:**

The regulatory proposal benefits the welfare of California residents by allowing students who enrolled at institutions that closed without providing a date of closure to the Bureau to more quickly apply for financial relief from the Student Tuition Recovery Fund and from federal student loan programs and therefore get their relief more quickly. This regulatory proposal does not affect the health of California residents, worker safety or the state's environment.

*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 requires institutions in certain circumstances to file a closing plan with the Bureau along with related documents, and notice of closure with students. The Bureau has determined that it is necessary for the welfare of the people of the State that the regulation apply to institutions, as a closing plan and related documents will inform students of their options for completing their educational program after their institution's closure, and will help the Bureau contact students about possible relief they may be eligible for if an institution closed before the student completed their degree.

**Effect on Small Business**

The Bureau has determined that the proposed regulations will not affect small businesses. Businesses that will be affected will already be closed, which means they will not be affected by the regulation.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is pro-

posed or 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 provisions of law.

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818 during the written comment period, or at the hearing if one is scheduled or requested.

**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, and any document incorporated by reference, and the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818.

**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  
FINAL STATEMENT OF REASONS AND  
RULEMAKING FILE

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

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

CONTACT PERSON

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

Name: David Dumble  
Address: P.O. Box 980818  
West Sacramento, CA 95798–0818  
Telephone Number: (279) 895–6091  
Fax: (916) 263–1897  
Email Address: [David.Dumble@dca.ca.gov](mailto:David.Dumble@dca.ca.gov)

The backup contact person is:

Name: Yvette Johnson  
Address: P.O. Box 980818  
West Sacramento, CA 95798–0818  
Telephone Number: (279) 895–6099  
Fax: (916) 263–1897  
Email Address: [Yvette.Johnson@dca.ca.gov](mailto:Yvette.Johnson@dca.ca.gov)

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Bureau's website at <http://bppe.ca.gov/lawsregs/current.shtml>.

TITLE 14. DEPARTMENT OF  
CONSERVATION/CALIFORNIA  
GEOLOGIC ENERGY  
MANAGEMENT DIVISION

SB 463: CHEMICAL INVENTORY AND  
ROOT CAUSE ANALYSIS REGULATIONS

**NOTICE IS HEREBY GIVEN** that the California Department of Conservation (Department) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD AND  
PUBLIC COMMENT HEARING

Any person, or his or her authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the Department.

Comments may be submitted by email to:

[undergroundgasstorageregs@conservation.ca.gov](mailto:undergroundgasstorageregs@conservation.ca.gov)

or by mail to:

Department of Conservation  
715 P Street, MS 1907  
Sacramento, CA 95814  
Attention: SB 463 Rulemaking

**The written comment period closes at 11:59 p.m. on June 5, 2024.** The Department will only consider comments received at the Department's offices by that time.

**Public Hearing**

Any interested person, or his or her authorized representative, may present, either orally or in writing, comments regarding the proposed action at the virtual public hearing to be held on **June 4, 2024 at 5:30 p.m.**

Register for the public hearing on zoom:

[https://us06web.zoom.us/webinar/register/WN\\_4aLwWnrISFSLyElgH0dK0A](https://us06web.zoom.us/webinar/register/WN_4aLwWnrISFSLyElgH0dK0A)

Or join by telephone:

877–336–1831 Conference Code 148676

Spanish:

888–455–1820 Código de Conferencia 3642190

**Accessibility**

If you have a disability and require a reasonable accommodation to fully participate in this event, please contact Sarah Rubin, Outreach and Engagement Coordinator, as soon as possible to discuss your accessibility needs.

Email: [Sarah.Rubin@conservation.ca.gov](mailto:Sarah.Rubin@conservation.ca.gov)  
Phone: (916) 214–5731

[English]

Translation and interpretation services may be provided upon request. To ensure availability of these services, please make your request no later than ten working days prior to the workshop by contacting Sarah Rubin, Outreach and Engagement Coordinator. Email: [Sarah.Rubin@conservation.ca.gov](mailto:Sarah.Rubin@conservation.ca.gov) | Phone: (916) 214–5731

[Spanish]

Se podrán proporcionar servicios de traducción e interpretación a petición previa. Para poder garantizar la disponibilidad de estos servicios, asegúrese de realizar su solicitud a más tardar diez días hábiles antes de la reunión comunitaria comunicándose con Sarah Rubin, Coordinadora de Alcance y Participación. Correo electrónico: [Sarah.Rubin@conservation.ca.gov](mailto:Sarah.Rubin@conservation.ca.gov) | Telephone: (916) 214–5731

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by California Public Resources Code (Pub. Resources Code) sections 3013, 3106, and 3180, and to implement, interpret, or make specific sections 3011, 3106, 3180, 3181, 3181.5, 3183, 3184, 3186.3, 3220 and 3403.5 of the Public Resources Code, the Department proposes to amend title 14, division 2, chapter 4, subchapter 1, article 5 of the California Code of Regulations, sections 1726.1, 1726.3, 1726.3.1, 1726.4.4, and 1726.6.1, and add new sections 1726.3.2, 1726.3.3, and 1726.4.3.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The California Geologic Energy Management Division (Division), within the Department, supervises and regulates oil, gas, and geothermal well operations, including their attendant facilities, throughout the State. (See Pub. Resources Code, § 3106.) The Division carries out its regulatory authority to encourage the wise development of oil and gas resources, while preventing damage to life, health, property, and natural resources. The Division regulates the injection of natural gas into large underground reservoirs for storage before the gas is later withdrawn for sale to residential, commercial, and industrial customers and natural gas power plants. The Division oversees un-

derground gas storage (UGS) facilities to ensure that the original reserves are not lost, that drilling of new wells is conducted safely, and to minimize the risk of damage to public health and the environment. (Pub. Resources Code, §§ 3106, 3180, 3181, 3183, 3184, 3220 and 3403.5.) The Division’s duties include the protection of public health and safety and environmental quality, including reduction and mitigation of greenhouse gas emissions associated with the development of hydrocarbon resources. (Pub. Resources Code, § 3011.)

**Existing Regulations**

On October 23, 2015, a natural gas leak was discovered from an injection and production well in the Aliso Canyon Natural Gas Storage Facility in Los Angeles County. The leak, and subsequent well blowout, represented a significant threat to the public peace, health, safety, and general welfare. It resulted in the relocation of thousands of people from the areas proximal to the facility and, according to the California Air Resources Board, released at least 109,000 metric tons of methane. On February 11, 2016, the operator temporarily controlled the leak by injecting mud from a relief well intersecting the bottom of the leaking well. A permanent seal of the well was announced on February 18, 2016.

In response to the Aliso Canyon incident, the Division promulgated emergency regulations on February 5, 2016, imposing requirements on all UGS facilities in the state. The Legislature also responded to the incident, and, effective January 1, 2017, Senate Bill 887 (Pavley, Chapter 673 statutes of 2016) (SB 887) established a number of significant new statutory requirements for UGS facilities, including a requirement that no single point of failure pose an immediate threat of loss of control of fluids. Consistent with the statutory requirements of SB 887, the Division promulgated a set of regulations specific to UGS facilities which became effective on October 1, 2018.

The 2018 regulations were implemented within the California Code of Regulations as a new article that is dedicated to the regulation of UGS activities, and which created a comprehensive regulatory framework tailored to the regulatory concerns specific to UGS projects. UGS operators also remain subject to the existing requirements for all wells enforced by the Division.

Upon implementation of the 2018 regulations, UGS operators were subject to risk management plan (RMP) and emergency response plan (ERP) requirements, well construction standards, mechanical integrity testing, data requirements, records management protocols, and monitoring and inspection requirements for wells and UGS projects. The proposed regulations build on these requirements consistent with statutory mandates and goals for UGS projects to reduce risks

to health, safety, and the environment, and to facilitate thorough and transparent oversight, evaluation, and risk assessment of UGS projects.

**Proposed Regulations**

Investigations into Aliso Canyon continued after the new regulations were in place. The California Public Utilities Commission (CPUC), in consultation with the Division and the federal Pipeline and Hazardous Materials Safety Administration (PHMSA), selected Blade Energy Partners to perform an independent analysis in parallel with investigations being performed by the Division and the CPUC. On May 17, 2019, Blade issued a root cause analysis report for the incident that includes a main report and four volumes of supplementary reports (Blade Report).

Simultaneously, local public health officials, private health professionals, and community groups were reaching out to the Legislature and the Division, concerned that there was insufficient information regarding the chemical makeup of the gas that had been released during the Aliso Canyon event to properly evaluate public health impacts on neighboring communities.

In response to these concerns, the Legislature passed Senate Bill 463 (Stern, Chapter 773 statutes of 2019) (SB 463) which requires operators to provide to the Division “a complete chemical inventory of the materials, of any phase, that may be emitted from the gas storage well in the event of a reportable leak...no less than annually.” It also requires the Division to review and revise its regulations related to reportable leaks at least every 10 years. Finally, SB 463 requires the Division to review, and if necessary, revise, its policy and regulations to address the root causes identified by the Blade Report, including consideration of cathodic protection, well control plans, and investigations into leaks and equipment integrity.

The amendments and additions to the UGS regulations proposed in this package respond to the requirements of SB 463 and include lessons learned by Division regulatory professionals as they have applied the UGS regulations which became effective in 2018. The proposals include a definition for a Gas Storage Well Chemical Inventory as well as a dedicated regulatory section outlining what the inventory must contain and identifying the details of a protocol for collecting, maintaining, and submitting chemical information to the Division. A new section devoted to corrosion evaluation and mitigation includes language recommended by corrosion professionals at the Lawrence Livermore National Laboratory and requires consideration of cathodic protection as well as other mitigation strategies.

These proposed regulations further the Division’s statutory mandate under Public Resources Code (PRC) sections 3011, 3106, 3180, 3181, 3181.5, 3183, 3184, 3186.3, 3220 and 3403.5 to maintain surveil-

lance over UGS facilities by requiring tracking and reporting of off-normal events, to identify integrity concerns by prescribing corrosion evaluation, mitigation and monitoring that will reduce the risk of future incidents like Aliso Canyon, and to prevent damage to life, health, property, and natural resources by identifying the chemicals and pollutants that could be emitted from a UGS well.

The proposed regulations are intended to supplement the Division’s current regulatory framework related to underground gas storage with the following objectives:

- Address new regulatory definitions, including “gas storage well chemical inventory,” and “Inflow Performance Relationship.”
- Expand elements of operator RMPs, including corrosion protocols and strategies, reporting of off-normal occurrences, and the inclusion of contractors’ level of training, experience, and expertise in the assessment of human factors in operating and maintenance procedures.
- Address new elements of the ERP, including well-specific well control plans that include evaluations of the conditions indicated by well-specific inflow performance relationship curves, and identification of monitoring, sampling, and testing methods that may be utilized to detect and, if possible, quantify chemicals of concern if requested by the Division in the event of a leak.
- Address the timeframe for updates to the ERP.
- Address prevention and mitigation protocols regarding corrosion evaluation and corrosion monitoring and risk mitigation strategies.
- Address prevention and mitigation protocols for defining, investigating, tracking, and reporting to the Division any off-normal occurrences including content and timing for reporting, investigation, evaluation and remediation of the occurrence, supplemental reporting, and the required use of the collected data to update and improve RMP methodology.
- Address the gas storage well chemical inventory, including the types of materials required to be listed, chemical abstract service number for each chemical, analytical test results of the chemical constituents present, a list of chemicals to be tested for, and a detailed protocol for maintaining and providing the inventory to the Division.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The proposed regulations supplement the Division’s current regulatory framework concerning gas storage wells by increasing well corrosion monitoring and

mitigation, increasing the scope of RMPs and ERPs, requiring more frequent updates to an operator's ERP, increasing reporting requirements for off-normal occurrences, and requiring an accurate inventory of chemicals that have been added to each well.

In general, this rulemaking action will clarify, and augment the regulatory standards applicable to UGS projects in California to reduce threats to life, health, property, and natural resources, and protect stored resources, surface and underground waters, and the public welfare. The proposed chemical inventory regulations will provide needed transparency and information about the chemicals to which the public may be exposed in the event of a release from a gas storage well. The other proposed regulations and amendments will enhance the Division's existing UGS regulations to support and facilitate operator detection, investigation, evaluation, and mitigation of well integrity issues. These supplements will benefit public health and safety and the environment by reducing the risk of blowouts, strengthening emergency response procedures to be current and complete in the event of a blowout, and collecting information that can support public health analysis after a reportable leak occurs.

#### CONSISTENCY WITH FEDERAL STATUTE AND REGULATION

In June 2016, Congress enacted the "Securing America's Future Energy: Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016" or "Safe Pipes Act." Of significance to UGS projects, the Safe Pipes Act added a new section entitled "Standards for Underground Natural Gas Storage Facilities." (49 U.S.C. § 60141.) That section authorizes states to adopt additional or more stringent safety standards for intrastate underground natural gas storage facilities if such standards are "compatible" with federal minimum standards implementing the Safe Pipes Act. (49 U.S.C. § 60141, subdivision (e).)

PHMSA is the federal agency primarily responsible for pipeline regulation and safety (49 USC, § 108, (b), (f)). It adopts regulations that prescribe minimum pipeline safety standards for the pipeline transportation of natural gas, as well as regulations that prescribe minimum standards for underground gas storage facilities. The Division's 2018 regulations for California UGS facilities were based on the same industry standards as PHMSA's safety rules and complement, rather than conflict, with those standards.

The proposed regulations do not unnecessarily duplicate or conflict with federal regulations contained in the Code of Federal Regulations addressing the same issues; they complement and extend corresponding PHMSA requirements. For example, PHMSA requires reporting of "safety-related conditions" within five to

ten working days (49 CFR §§ 191.23 and 191.25 (a)), while the proposed regulations would require reporting of "off-normal occurrences" within 30 days. The term "safety-related condition" is not defined in 49 CFR, but reportable conditions are listed in § 191.23 and are similar in severity and level of urgency to the off-normal occurrences listed in the proposed regulations.

Unlike the PHMSA rule which does not require reporting of certain conditions corrected within five or ten working days, the proposed regulations require reporting of all off-normal occurrences, even if they have been repaired before the deadline for the filing of the report. This proposed requirement is consistent with the recommendation of the California Council on Science and Technology, which recommends an off-normal occurrence database as a source of learning and collaboration for operators and regulators,<sup>1</sup> requiring all events to be included, even if corrected.

SB 463 directs the Division to collect an inventory of the chemicals that may be emitted from a well in the event of a reportable leak. (Pub. Resources Code, § 3181.5.) There is no equivalent existing requirement under federal law. SB 463 also directs the Division to consider requirements for cathodic protection, well control, and off-normal incident reporting, to mitigate threats to life, health, property, the climate, or natural resources. (Pub. Resources Code, § 3186.3; see also Pub. Resources Code, § 3403.5 [charging the Division with responsibility to ensure that no damage occurs to the environment by reason of injection and withdrawal of gas at underground storage facilities].) The Division's proposed regulations are necessary to achieve California's statutory goals of greater protection of health and safety and are generally consistent with, compatible with, or stricter than the federal standards.

#### CONSISTENCY WITH EXISTING STATE REGULATIONS

The Division has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations. To the extent other state agencies may enforce health, safety, or environmental protection standards that could apply to underground gas storage facilities because they are regulations of general application affecting a wider range of industrial activities, those regulations are not expected to be inconsistent or incompatible with the regulations proposed here.

Certain aspects of the Division's proposed regulations would apply to intrastate natural gas pipelines

<sup>1</sup> California Council of Science & Technology. Long-Term Viability of Underground Natural Gas Storage in California. page 330–332. 2018. [https://ccst.us/wp-content/uploads/Full-Technical-Report-v2\\_max.pdf](https://ccst.us/wp-content/uploads/Full-Technical-Report-v2_max.pdf).

and associated facilities that are located within the gas storage field. These pipelines also fall under the regulatory jurisdiction of the CPUC and are subject to CPUC General Order Number 112–F. To the extent the Division’s proposed regulations overlap with CPUC’s requirements as applied to certain pipelines, the Division’s regulations would not be inconsistent or incompatible with CPUC’s requirements.

For example, while CPUC’s General Order requires protection of pipelines from external corrosion and regular inspection for evidence of corrosion (see General Order Number 112–F, §§ 125.4(f), 183.3, 183.5), the Division’s proposed regulations would require development of a comprehensive prevention and mitigation protocol to provide for corrosion evaluation, corrosion risk mitigation, and monitoring. The Division’s requirement for more extensive corrosion prevention and mitigation would not prevent compliance with the CPUC requirements. Further, the Division and CPUC have a Memorandum of Agreement in place to ensure coordinated, consistent, and non–duplicative regulation of pipelines and facilities associated with UGS projects.

**PLAIN ENGLISH REQUIREMENT**

The Department staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code section 11349, subdivision (c), and the plain English requirements of Government Code sections 11342.580 and 11346.2, subdivision (a)(1). The proposed regulations are written in a manner to be easily understood by the persons that will use them.

**LOCAL MANDATE**

The Department has determined that the proposed action does not impose a mandate on local agencies or school districts.

**COST TO LOCAL AGENCIES**

This proposed action does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code. This proposal does not impose other non-discretionary costs or savings on local agencies.

**COST OR SAVINGS IN FEDERAL FUNDING**

This proposal does not result in any costs or savings in federal funding to the state.

**COST OR SAVINGS TO STATE AGENCIES**

Implementation of the requirements in the proposed regulations would require the Division to incur additional staff hours for oversight of operator compliance. During the first–year implementation period, the Division will incur an estimated total expense of \$241,962 from staff hours for RMP expansions. In subsequent years, the Division will incur an annual recurring expense of \$181,472 from staff hours for the monitoring of the same requirements. These impacts will be absorbable.

Implementation of the requirements in the proposed regulations will not affect non–discretionary costs or savings to local agencies, including costs to any local agency or school district requiring reimbursement pursuant to section 17500 et seq., and will not affect federal funding to the State.

**EFFECT ON HOUSING COSTS**

The Department has determined that the proposed regulation will have no significant effect on housing costs.

**IMPACT ON BUSINESS**

The proposed regulations will affect owners and operators of UGS facilities. Total direct costs to operators will be \$1.15 million in the first year and \$808 thousand in subsequent years. The following reporting, recordkeeping, and compliance requirements will result from the proposed regulations:

- Requirements for corrosion evaluation, corrosion risk mitigation strategies, and monitoring protocols for each gas storage well.
- Requirements for defining, investigating, tracking, and reporting any off–normal occurrence.
- Evaluation of the level of training, experience, and expertise of contractors and assessment of their contribution to risk.
- Creation and submission of well–specific well control plans to include Inflow Performance Relationship and the associated data or modeling.
- Identification of monitoring, sampling, and testing methods for chemicals of concern.
- Requirements for the identification of chemical constituents, and the tracking and reporting of a Gas Storage Well Chemical Inventory on a well–by–well basis with protocols for regular update.

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

Department has considered proposed alternatives that would lessen any adverse economic impact on business and invites the submission of proposals. Alternatives already considered can be found in the Initial Statement of Reasons. Submissions may include the following considerations:

- The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- Consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

#### IMPACT ON SMALL BUSINESS

The Department has determined that the proposed regulations will not directly affect small businesses, as the requirements of the proposed regulations apply only to operators of UGS projects which are not classified as small businesses.

#### COST IMPACTS ON A REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department drafted the proposed regulations after careful consideration of current best practices with regard to underground gas storage, as well as similar statutes and regulations implemented by other federal and state agencies. Additionally, the Department drafted the proposed regulations based on the requirements of SB 463. The following areas of the proposed regulations have been identified by the Department as potentially resulting in economic impact on a representative operator:

- Expansion of the RMP, including updating the ERP, expanding corrosion evaluation, mitigation, and monitoring protocols, and the reporting of off-normal occurrences.
- Creation and maintenance of a gas storage well chemical inventory for each well.

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

Based upon its analysis, the Department determined:

- The proposed regulations may affect the creation of jobs within the State of California. The proposed regulations will not affect the elimination of jobs within the State of California.
- The proposed regulations will not affect the creation of new businesses or the elimination of existing businesses within the State of California.

- The proposed regulations will not affect expansion of businesses currently doing business within the State of California.
- The proposed regulations will benefit the health and welfare of California residents, worker safety, and the environment by improving regulatory oversight of UGS projects such that harms to the public are more likely to be avoided. More information on these benefits can be found in the Initial Statement of Reasons and Economic Impact Analysis.

The proposed regulations satisfy the Division's statutory mandate under SB 463 to address the root causes identified in the 2015 well leak at the Aliso Canyon gas storage facility and require operators of gas storage wells to provide a complete chemical inventory of materials that may be emitted from a gas storage well in the event of a reportable leak. In addition, the proposed regulations satisfy the same statutory mandate to require an operator to report to the Division a leak that poses a significant present or potential hazard to public health and safety, property, or to the environment.

#### NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT

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

#### BUSINESS REPORTING REQUIREMENT

These regulations will require the submission of information to the Department by businesses that own and/or operate gas storage facilities and gas storage wells. The Department finds that it is necessary for the health, safety, or welfare of the people of this state that the submission of information required by these regulations applies to the affected businesses.

#### CONSIDERATION OF ALTERNATIVES

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



The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at any hearing scheduled to take statements or arguments that are relevant to the proposed action.

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Conservation  
715 P Street, MS 1907  
Sacramento CA 95814  
Attention: SB 463 Regulations

Christine Hansen  
Regulations Manager  
[Christine.Hansen@conservation.ca.gov](mailto:Christine.Hansen@conservation.ca.gov)  
Phone: 916–694–7577

Nick Pesci  
Regulatory Analyst  
Phone: 916–208–4190  
[Nicholas.Pesci@conservation.ca.gov](mailto:Nicholas.Pesci@conservation.ca.gov)

The Department has available the express terms of the regulation, the Initial Statement of Reasons, and all the information upon which the proposal is based (the rulemaking record). Copies of the primary rulemaking documents are available on the Department website at <https://www.conservation.ca.gov/index/Pages/rulemaking.aspx>, with all documents being available upon request to the contact persons listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department will consider all timely and relevant comments received during the written comment period and at the public hearings above. Thereafter, the Department may adopt the proposed regulations in substantially the same form as described in this Notice.

If the Department makes any modifications to the text of the proposed regulations that are substantial, but sufficiently related to the original proposed text as described in this Notice, the Department will make the modified text (with changes clearly indicated) available to the public for at least 15 days before adopting the proposed regulations as modified. The Department will accept written comments regarding modified regulations for 15 days after the date upon which they are made available to the public. Please send requests for copies of any modified regulations via email or mail to the persons identified as contact persons in this notice.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by sending an inquiry to one of the contact persons above. The Final Statement of Reasons will also be available on the Department website at: <https://www.conservation.ca.gov/index/Pages/rulemaking.aspx>.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: <https://www.conservation.ca.gov/index/Pages/rulemaking.aspx>.

If you have any questions regarding the process of the proposed action, please contact Christine Hansen at [Christine.Hansen@conservation.ca.gov](mailto:Christine.Hansen@conservation.ca.gov).

### TITLE 16. BOARD OF PHARMACY

#### COMPOUNDED DRUG PRODUCTS

**NOTICE IS HEREBY GIVEN** that the California State Board of Pharmacy (board) proposes taking the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under *Contact Person* in this Notice, must be received by the board at its office by June 3, 2024.

The board will hold a public hearing on June 18, 2024, beginning at 9:00 a.m. in the First Floor Hearing Room of the California Board of Pharmacy, 2720 Gateway Oaks Drive, Sacramento, CA 95833. Additionally, attendees may participate via the WebEx meeting platform. To participate via WebEx meeting platform please contact Lori Martinez at [PharmacyRulemaking@dca.ca.gov](mailto:PharmacyRulemaking@dca.ca.gov) by 4:30 p.m. on June 17, 2024, to request a link to the meeting. The link to the meeting will also be posted on the board's Laws and Regulations webpage no later than 8:00 a.m. the day of the hearing. The hearing will proceed on the date noted above until all testimony is submitted. At the hearing, any person may present oral or written statements or arguments relevant to the proposed action described in the Informative Digest. The board requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony via email.

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

*Authority and Reference:* Authority: Sections 4005, 4126.8, and 4127, Business and Professions Code. Reference: Sections 4005, 4076, 4081, 4105, 4123, 4126.8, 4126.9, 4127, 4127.1, 4127.2, 4127.8, 4169, 4301, 4306.5, and 4332, Business and Professions Code; 21 U.S.C. Sections 355 and Part 530.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California State Board of Pharmacy (board) is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies and pharmacists. Pharmacy Law provides for the licensure and regulation of pharmacists and pharmacies by the board. The board's statutory priority is to protect the public (Business and Professions Code (BPC) section 4001.1). Its stated mission is to protect and promote the health and safety of Californians.

Compounding is the long-standing pharmacy practice of mixing, combining, or altering ingredients. Compounding may involve merely altering an existing drug product or creating an entirely new drug product. Compounded human drugs can serve an important role for patients whose clinical needs cannot be met by an FDA-approved drug. For example, compounding is used when a patient is allergic to an ingredient in an FDA-approved drug, or for when children need a lower strength drug than what is commercially available. Compounded drugs can be preparations such as topical creams, eye drops, capsules or tablets intended for oral ingestion, or injectable solutions. Generally, each time a drug is compounded, it would be a new drug requiring compliance with all United States Food, Drug, and Cosmetic Act (FDCA) requirements, including required approval of an application by the FDA. Compounded drugs, however, may not be FDA approved. While the FDA has a role in approving the ingredients that may be used in compounding human drugs, it is not practical and would effectively prohibit all compounding of human drugs by pharmacists and pharmacies without an exemption under section 503A

of the FDCA (21 U.S.C. 353a) from new drug approval and other FDCA requirements (503A exemption).

There are, however, compounding professional standards that are used across the nation known as the United States Pharmacopeia and The National Formulary (USP–NF). USP–NF is a book of public pharmacopeial standards. It contains standards for non-sterile, sterile, hazardous, and radiopharmaceutical compounding. USP–NF is a combination of two compendia, the United States Pharmacopeia (USP) and the National Formulary (NF). The FDCA designates the USP–NF as the official compendia for drugs marketed in the United States. A drug product in the U.S. market must conform to the standards in USP–NF to avoid possible charges of adulteration and misbranding.

States are the primary regulators of pharmacists and pharmacies engaged in compounding human drugs. Thus, pharmacists engaged in compounding are subject to both federal and state law. California has an extensive statutory and regulatory scheme governing compounding by pharmacies. Similar to federal law, section 111550(a) of the California Health and Safety Code prohibits the sale, delivery, or giving away of a new drug that has not has a new drug application approved under Section 505 of the FDCA. Additionally, Business and Professions Code (BPC) section 4126.8 expressly provides that the compounding of drug preparations by a pharmacy for furnishing in this state shall be consistent with “standards established in the pharmacy compounding chapters of the current version of the United States Pharmacopeia–National Formulary....” This section also expressly authorizes the Board to adopt “regulations to impose additional standards for compounding drug preparations.” Existing law also requires the board to adopt regulations establishing standards for compounding sterile drug products (primarily drugs that are injectable) in a pharmacy. (BPC § 4127.) Existing law requires pharmacies to obtain a license from the board, subject to annual renewal, in order to compound these sterile drug products. (BPC § 4127.1.) A similar licensing requirement applies to nonresident pharmacies compounding injectable sterile drug products for shipment into California. (BPC § 4127.2.)

Additionally, BPC Section 4342 provides authority for the board to institute any action provided by law, that in its discretion, is necessary to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength provided in the latest addition of USP or that violate any provisions of the Sherman Food, Drug, and Cosmetic Law. Thus, both state and federal law require compounding pharmacies to comply with the USP chapters on compounding in lieu of compliance with current good manufacturing practices that manufacturers and outsourcing facilities must comply with.

On June 1, 2019, USP published revisions to General Chapter <795> for nonsterile compounding and General Chapter <797> for sterile compounding, as well as a new General Chapter <825> for radiopharmaceutical compounding. After publication of the revised and new compounding standards, USP received appeals on certain provisions in <795>, <797>, and <825>. Therefore, USP postponed the official date of the revised <795> and <797>, and the new general chapter <825> until further notice. General Chapter <800> for hazardous compounding was not subject to any pending appeals and became official on December 1, 2019; however, during the postponement and pending resolution of the appeals of <795> and <797>, USP indicated that <800> was informational and not compendially applicable. USP encouraged utilization of <800> in the interest of advancing public health. On November 1, 2022, USP published the final revised General Chapters of <795> and <797> and new Chapter <825> with an official effective date of November 1, 2023.

The board is required to review any formal revision to General Chapter 797 of the USP–NF relating to the compounding of sterile preparations, no later than 90 days after the revisions become official to determine whether amendments are necessary for the regulations adopted by the board. (BPC § 4127(c).) Upon publication, the board began its review of the revised standards and have worked to update its regulations.

This proposal will implement, clarify, or make more specific requirements related to the respective chapters. For ease of reference to the USP chapters, the board’s proposed regulations mirror the structure of the respective chapters. This means the numbering format and section titles of the proposed regulations follow the relative USP chapter. The goal of the board’s regulations is not to duplicate provisions of federal law or USP language, but to clarify or make more specific the requirements. If no clarification is needed or no additional requirements are necessary for public safety, requirements are not being added to the board’s proposed text. Requirements that are already laid out in the USP chapters or federal law that are not just suggestions or discretionary recommendations, but must be followed, were not duplicated. In addition, USP requirements identified in existing regulations have been repealed to eliminate the duplication with federal law.

The board proposed additional requirements that strengthen the USP requirements. While the board can strengthen federal requirements, it cannot promulgate a lesser standard in its regulations. Section 503A is quite extensive but one of the specific conditions a licensee must meet to be eligible for the exemptions provided under 503A is that the drug product is compounded in compliance with USP chapters on

pharmacy compounding. Further, as a consumer protection agency, the board must promulgate regulations through the lens of its consumer protection mandate as the law makes clear whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (BPC 4001.1).

#### ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

USP General Chapters <795> for nonsterile compounding, <797> for sterile compounding, <800> for hazardous drug handling in healthcare settings, and <825> for radiopharmaceutical preparation, compounding, dispensing, and repackaging establish the minimum national standards for compounding in the United States. This proposal aligns the board’s regulations with the revised USP standards and, in some instances where there are patient safety concerns, the proposed regulations build upon the minimum USP standards to ensure protection of all Californians who require the services of a pharmacist or pharmacy to dispense or furnish to them the compounded drug products that meet their needs. Ensuring compliance with national standards is a benefit to public health and safety, worker safety, and the environment.

Due to the extensive proposed regulatory changes that occurred, the board’s proposal repeals the existing articles related to compounding in total. It adds new articles that follow each other for ease of locating and reviewing compounding regulations. It adds section numbers and titles that tend to follow the revised USP chapters for ease of cross-reference. The repeal and replace is being proposed for clarity as the proposed revisions are extensive and the changes are difficult to read and follow when proposed in a strikeout and underline format.

#### CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

While developing these regulations, the board conducted a search of similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

#### INCORPORATION BY REFERENCE

Controlled Environment Testing Association (CETA) Certification Guide for Sterile Compounding Facilities (CAG–003, October Revised 2022).

**FISCAL IMPACT AND  
RELATED ESTIMATES**

*Fiscal Impact on Public Agencies Including Costs/Savings to State Agencies or Costs/Savings in Federal Funding to the State:* The proposed regulation does not result in a fiscal impact to the state. The board currently ensures compliance with its regulation through its robust routine inspection program.

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

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

*Local Mandate:* None.

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

***Business Impact:***

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

This initial determination is based on the absence of testimony to that effect during the public discussion and development of the proposed regulation. Additionally, the proposal aligned the board’s regulation with the national minimum standard. While the board does, in some instances, establish a higher standard, the board determined that this standard will not have a significant adverse impact.

*Cost Impact on Representative Private Person or Business:*

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

*Effect on Housing Costs:* None.

***Effect on Small Business***

While the board does not have, nor does it maintain, data to determine if any of its licensees (pharmacies and clinics) are a “small business,” as defined in Government Code section 11342.610, the board has made an initial determination that the proposed regulatory action will not affect small businesses as the proposal aligns the board’s regulation with the national minimum standard. While the board does, in some instances, establish a higher standard, the board determined that this standard will not have a significant adverse impact.

**RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS**

***Impact on Jobs/New Businesses:***

The Board concludes that:

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

This proposal will not create or eliminate jobs and/or businesses within California. Additionally, this proposal will not expand businesses because this regulatory proposal only establishes requirements for certain individuals to obtain a temporary license to practice pharmacy in California. The regulations are aimed at providing clarity to members of the board’s regulated public on the requirements specific to compounded drug products. While national standards apply to all compounding, this proposed set of compounding regulations addresses areas where the board is requiring standards that go above the minimal established by USP guidelines. The higher standards do not impact the creation or elimination of jobs or businesses within the state.

This regulatory proposal benefits the health and welfare of California residents because the proposed regulations increase the safety standards for all Californians relying on compounded and sterile compounded drug products.

This regulatory proposal benefits worker safety because the proposed regulations will increase the incentive for innovation in products, materials, or processes as those involved in the sterile compounding industry seek ways to improve products and materials as well as processes required for compounding and sterile compounding.

The regulatory proposal does not impact the state’s environment. The proposal impacts the safety standards on all businesses performing compounding and sterile compounding; however, those safety standards should not impact the state’s environment.

**CONSIDERATION OF ALTERNATIVES**

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

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

Any interested person may present statements or arguments in writing relevant to the above determinations at the address listed for the *Contact Person* during the written comment period.

#### AVAILABILITY OF TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Pharmacy at 2720 Gateway Oaks Drive, Suite 100, Sacramento, California 95833, or from the Board of Pharmacy’s website at <http://www.pharmacy.ca.gov>.

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

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

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

#### CONTACT PERSON

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

Name: Lori Martinez  
Address: 2720 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833  
Phone Number: (916) 244–6648  
Fax Number: (916) 574–8618  
Email Address:  
[PharmacyRulemaking@dca.ca.gov](mailto:PharmacyRulemaking@dca.ca.gov)

The backup contact person is:

Name: Anne Sodergren  
Address: 2720 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833  
Phone Number: (916) 518–3110  
Fax Number: (916) 574–8618  
Email Address:  
[PharmacyRulemaking@dca.ca.gov](mailto:PharmacyRulemaking@dca.ca.gov)

#### WEBSITE ACCESS

Materials regarding this proposal can be found at the Board of Pharmacy’s website: [https://www.pharmacy.ca.gov/laws\\_regs/pending\\_regs.shtml](https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml).

### TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

#### DISCIPLINARY GUIDELINES

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

#### PUBLIC HEARING

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

#### WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or email to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than Tuesday, June 4, 2024**, or must be received by the Board at the hearing, should one be scheduled.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by section(s) 2854 of the Business and Professions Code (BPC) and Section 11425.50(e) of the Government Code, and to implement, interpret, or make specific BPC sections 315, 315.2, 315.4, 729, 2875, 2876 and 2878, Section

44010 of the Education Code; and Sections 11400.20, 11425.50(e) and 11500 of the Government Code.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

The Board of Vocational Nursing and Psychiatric Technicians (Board) licenses, regulates, and investigates complaints against licensed vocational nurses and psychiatric technicians in California, totaling approximately 132,199 vocational nurses and 10,922 psychiatric technician licensees pursuant to the provisions of the Vocational Nursing Practice Act (“VN Act” — Bus. & Prof. Code, §§ 2840 et seq.) and the Psychiatric Technicians Law (“PT Act” — Bus. & Prof. Code, §§ 4500 et seq., collectively “Practice Acts”). Protection of the public is the Board’s highest priority in exercising its licensing, regulatory, and disciplinary functions as specified in Business and Professions Code (BPC) sections 2841.1 and 4501.1.

The Board is authorized to establish reasonably necessary rules and regulations to carry out the provisions of the VN and PT Acts in accordance with the Administrative Procedure Act (APA). (Bus. & Prof. Code, §§ 2854 and 4504.)

The document entitled “Disciplinary Guidelines and Uniform Standards Related to Substance Abuse” (Rev. 6/20/11 — “Disciplinary Guidelines” or “Guidelines”) is used to provide guidance to the Board, Administrative Law Judges (ALJs), and other interested parties in determining the terms and conditions of discipline for licensees found to have committed actions warranting administrative discipline. Existing regulations require (at Title 16, Code of California Regulations (CCR), Sections 2524 and 2579.10) the Board to utilize these disciplinary guidelines. “in reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq. — APA).” The Disciplinary Guidelines are incorporated by reference as a regulation, and therefore any update to the Disciplinary Guidelines will require an update in regulations as required by law in the APA. The Disciplinary Guidelines were last modified in 2011, and this rulemaking would update the Disciplinary Guidelines to better protect California consumers and ensure consistency in the Board’s enforcement actions.

The Board’s proposal includes the following changes:

- Amend the Title of the document and the proposed text throughout to reflect the title of the Substance Abuse Coordination Committee’s document so that the title would refer to “Uniform Standards *Regarding* Substance-Abusing Licensees” and update the standards consistent with recent changes made by the Substance Abuse Coordination Committee.

- Add a policy statement to the Introduction indicating that the Board seeks reimbursement of its investigative and prosecution costs in all disciplinary cases in which the licensee is found to have committed a violation with an explanation for what cost recovery includes and why cost recovery is an important public policy.
- Reflect changes to California law since the last version of the Guidelines were approved by the Board, including the adoption of Substantially Related Criteria and Rehabilitation Criteria as outlined in 16 CCR sections 2521, 2522, 2578 and 2579, respectively, and as required by Business and Profession Code (Code) sections 480, 481 and 482, as amended by Chapter 995, Statutes of 2018 (AB 2138).
- Change the introductory language for the standard conditions of probation from items that will “generally appear” to items that “should appear in every case” to ensure consistency in implementation of probationary orders.
- Add new factors to be considered when determining whether revocation, suspension or probation should be imposed in a given disciplinary action
- Clarify all conditions with time-based deadlines, such as adding the word “calendar” to a 30-day reporting requirement.
- Change the standard compliance (proposed as “cooperation and compliance”) condition to include requirements for timely responding to Board inquiries, that the licensee on probation submit to the Board the contact information for their criminal probation or parole officer and inform their criminal probation or parole officer that they are being monitored by the Board. Also, makes explicit that failure to timely respond is a violation of probation.
- Change the submission of quarterly written reports standard condition to include that the licensee on probation will submit disclosures that include written disclosures regarding whether Respondent has complied with each term and condition of probation contained in this Decision (“complete report”); and, if applicable, (B) if Respondent discloses they are not in compliance with any term or condition, a written statement regarding why Respondent is not in compliance with any term or condition of probation. Revisions to this condition also makes specific the due dates for the quarterly reports and the allowable methods for delivering such reports. Incomplete written reports or reports submitted or postmarked after the listed reporting dates listed



would be considered late and not in compliance with this condition.

- Add new reporting requirements to the standard notice of change in address provision to include reporting within 5 calendar days of the effective date of the Decision, Respondent’s current physical address, mailing address(es), email address, and telephone number(s) to the Board or its designee.
- Change the standard notice of change in practice of residency, practice or licensure outside of the state (condition (would include title change to refer to “tolling”) to ensure that the licensee on probation does not remain tolled for more than two years or it would be considered a violation of probation. Adds new requirement to this section that Respondent shall submit annually, within 30 calendar days of the date requested by the Board or its designee, a written document verifying Respondent’s out-of-state residency, practice or licensure outside of California as specified. Would also specify that periods of residency or practice outside of California do not relieve Respondent of the responsibility to maintain a current and active license, and to comply with the terms and conditions of probation.
- Change the standard meeting with Board representatives’ condition to include proof of identity that includes a current state or federal government-issued photo identification (e.g., driver license, passport, or military identification) to the Board or its designee for examination upon request at any meeting.
- Changes the standard notification to employers’ condition to include notice to the employer of the name, title, telephone number and email address for the Board’s staff person who is Respondent’s probation monitor to ensure that the licensees on probation are informing their current employer as soon as they have been placed on probation.
- Change the employment requirement condition to allow licensees to work with more flexibility, by making the hours needed a 160-hour monthly requirement instead of a 20-hour weekly requirement.
- Change the standard completion of educational coursework condition to mandate that the licensee on probation take a law and ethics class, in addition to any classes deemed necessary to ensure consumer safety. Additional changes were included to ensure that the licensee on probation gave sufficient information to the Board to review and make a decision on whether or not the courses meet the standard for approval. Furthermore, a clarification was made to ensure that the

licensee on probation had an understanding that any courses that had not been pre-approved by the Board would not be counted towards fulfillment of the condition.

- Change the standard condition related to maintenance of a current license to ensure that the license is also kept active, and that the licensee pays all fees prior to the license expiration date and that it shall be considered a violation of probation to fail to do so.
- Change the standard cost recovery requirements to align them with the law at Business and Professions Code section 125.3 and the recent cost recovery precedential decisions by the Board.
- Change the standard license surrender condition to include when and how the Board would accept surrender of a license on probation as specified, including considerations of circumstances when the Board would consider not accepting a surrender in the interests of consumer protection.
- Change the standard violation of probation condition to specify that probation may be automatically extended while a Petition to Revoke Probation is pending and has not been acted upon by the Board, and that the original terms and conditions of probation still apply during that extension period.
- Change the optional examination by a physician condition to ensure that the Board is given a release to communicate effectively with the medical practitioner, and that the report contains sufficient information so that the Board can make an informed decision on whether or not to allow the licensee on probation to continue to practice.
- Change the optional psychiatric evaluation condition to ensure that the evaluator is properly licensed and within their scope of practice. Furthermore, changes were made to ensure that the report contains sufficient information so that the Board can make an informed decision on whether or not to allow the licensee on probation to continue to practice.
- Change the optional psychotherapy condition to ensure that the evaluator is properly licensed and within their scope of practice, and to allow for other practitioners who can offer mental health counseling. This will allow the licensees on probation to have more options when choosing a practitioner. Furthermore, the requirement that the licensee on probation share their decision and order and accusation with the practitioner helps ensure that the practitioner has all the needed information about the licensee on probation to make an informed decision on their ability to practice with safety to the public.

- Change the optional rehabilitation program condition to include in-patient and out-patient options and include recovery programs. This will allow the licensee on probation to have more options when choosing a program.
- Change the optional addictive behavior support group condition to include recovery groups that are facilitated by a mental health professional. Furthermore, changes were made to allow the Board to work with the mental health professional to increase or decrease the attendance requirements, based on the needs of the licensee on probation.
- Change the optional abstain from controlled substances condition to include abstention from alcohol in that condition and remove the separate alcohol condition.
- Change the optional biological fluid condition to a drug and alcohol testing condition. This will ensure that the Board has the flexibility in using other methods of collection so that licensees on probation have flexibility, and consumers are protected.
- Change the optional take and pass the licensure examination condition to ensure that they include information on the reinstatement of a license and the use of the new proposed model orders.
- Update the Violations and Recommended Disciplinary Actions matrix to include specified updates, where applicable, and remove any conditions that were duplicated.
- Add evidence in aggravation of penalty to ensure understanding of what the Board would consider aggravating factors in every case.
- Add evidence in mitigation of penalty to ensure understanding of what the Board would consider mitigating evidence.
- Add rehabilitation evidence to help applicants, petitioners and licensees understand the types of evidence that the Board will consider.
- Add model orders to ensure consistency in the implementation of the Board’s probationary orders, and,
- Make other non-substantive, technical clean-up changes including renumbering, punctuation, grammar, and changing gendered pronouns to non-gendered nouns.

**Anticipated Benefits of Proposal**

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents. The proposed amendments make the Disciplinary Guidelines consistent with current law and the current probationary environment, clarify the terms and conditions of probation

to reduce the likelihood of misinterpretation, provide model orders, and strengthen consumer protection.

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

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

This regulatory proposal does not affect worker safety, or the state’s environment as it is unrelated to either one of those issues.

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

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

**INCORPORATION BY REFERENCE**

This proposal would incorporate by reference the document entitled “Disciplinary Guidelines and Uniform Standards Regarding Substance–Abusing Licensees (Rev. OAL Insert Effective Date).” The Disciplinary Guidelines are incorporated by reference as they are too lengthy and cumbersome to be included in the CCR.

**FISCAL IMPACT ESTIMATES**

**Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:** None. There is no fiscal impact to the State in the form of federal funding or any cost or savings to any state agency. This proposal does not change the fines for violations, so no additional revenues are anticipated. This proposal provides a more accurate overview of the Board’s processes in formal disciplinary actions, which will provide greater clarity to licensees, consumers, the Board, the Office of the California Attorney General, and the Administrative Law Judges (ALJs) by outlining relevant and transparent standards directly related to violations outlined in law.

The Board does not anticipate additional workload or costs resulting from the proposed regulations.

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

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

The proposed regulatory action only impacts vocational nurse and psychiatric technician licensees and applicants who are disciplined by the Board for violations of the laws and regulations within its jurisdiction. The Board does not have the authority to take administrative action against a business. The proposed regulatory action only affects vocational nurse and psychiatric technician licensees and applicants who, through their conduct, subject themselves to disciplinary action for violations of the laws and regulations within the Board’s jurisdiction. Any “adverse economic impact” would only occur as the result of a disciplinary order following a formal administrative proceeding and a finding of fact affirming a violation of the laws or regulations within the Board’s jurisdiction. Any potential “adverse economic impact” may be avoided simply by complying with the existing laws and regulations governing the practice of vocational nurses or psychiatric technicians in California.

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

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations would revise existing disciplinary guidelines but do not change fine amounts. The proposed regulatory action only affects vocational nurses and psychiatric technician licensees and applicants who, through their own conduct, subject themselves to disciplinary action for violations of the laws and regulations within the Board’s jurisdiction. Any potential “adverse economic impact” may be avoided simply by complying with the existing laws

and regulations governing the practice of vocational nurses and psychiatric technicians in California.

#### BUSINESS REPORTING REQUIREMENTS

The regulatory action requires businesses to file a report with the Board. The regulatory action adds a new quarterly reporting requirement for those probationers who are ordered to abstain from the possession or personal use of a controlled substance or dangerous drug but have been lawfully prescribed a dangerous drug or controlled substance for a bona fide illness or medical condition (see Optional Term Number 21 “Abstain from Controlled Substances and Alcohol”). This new requirement would require the probationer (respondent) to file a report with the Board prepared by their prescriber containing specified disclosures including:

- (A) the prescriber’s name,
- (B) the prescriber’s license type and number,
- (C) the medication,
- (D) the dosage,
- (E) the date the medication was prescribed,
- (F) respondent’s prognosis,
- (G) the date the medication will no longer be required,
- (H) the effect on respondent’s recovery, if any, and,
- (I) if the medication prescribed is considered addictive, a statement regarding whether respondent is safe to practice and any plan for time limited use of the drug.

The new condition of probation would also require a probationer to identify a coordinating physician, nurse practitioner, or physician assistant who shall report to the Board on a quarterly basis the respondent’s compliance with this condition.

The Board has determined that it is necessary for the health, safety, or welfare of the people of the State that the regulation apply to businesses. These reports are required to be filed to ensure that all necessary information is provided by respondents to help the Board monitor whether respondent is practicing safely and not impaired for the protection of the public. These reporting requirements are similar to those required by other healing arts boards in the Department for licensees on probation for violations related to the use or possession of drugs or alcohol. As a result, prescribers would be familiar with these disclosures, and therefore should be prepared and able to address these reporting requirements within existing business operations.

EFFECT ON SMALL BUSINESS

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

**Impact on Jobs/Businesses:**

The Board has determined that this regulatory proposal will not have a significant impact on the following:

- 1) the creation or elimination of jobs within the state,
- 2) the creation of new businesses or the elimination of existing businesses within the state, or,
- 3) the expansion of businesses currently doing business within the state.

The proposed regulatory action only impacts vocational nurse and psychiatric technician licensees and applicants who, through their own conduct, are subject to disciplinary action for violations of the laws and regulations within the Board’s jurisdiction. Therefore, the overall economic impact on businesses and jobs is insignificant. The Board does not have the authority to take administrative action against a business.

**Benefits of Regulation:**

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents: The Board has determined that updating the Disciplinary Guidelines through this regulatory proposal will benefit the health and welfare of California residents by enhancing the Board’s ability to take appropriate action against vocational nurse and psychiatric technician licensees and applicants who, through their conduct, subject themselves to disciplinary action by violating the applicable Practice Acts and/or Board regulations. Additionally, this proposal will benefit the assigned Deputy Attorneys General (DAGs), ALJs, and others involved in the disciplinary process by ensuring consistency in the interpretation and application of penalties in administrative disciplinary actions. This regulatory proposal does not affect worker safety and this proposal is not related to the state’s environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must deter-

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

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2535 Capitol Oaks, Suite 205, Sacramento CA 95833, and to the attention of either of the persons listed under the section “Contact Person” listed below, during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information upon which the 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 ISOR, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to upon request from the Board of Vocational Nursing and Psychiatric Technicians at 2535 Capitol Oaks, Suite 205, Sacramento CA 95833.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the 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 will be available for 15 days prior to its adoption from the person designated in this Notice as Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

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

CONTACT PERSON

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

Name: Antoinette Wood  
 Address: 2535 Capitol Oaks Drive  
 Suite 205. Sacramento, CA 95833  
 Telephone Number: (916) 215–5014  
 Fax Number: (916) 263–7857  
 Email Address: [Antoinette.wood@dca.ca.gov](mailto:Antoinette.wood@dca.ca.gov)

The backup contact person is:

Name: Jeffery Weiler  
 Address: 2535 Capitol Oaks Drive  
 Suite 205. Sacramento, CA 95833  
 Telephone Number: (916) 263–2042  
 Fax Number: (916) 263–7857  
 Email Address: [Jeffery.Weiler@dca.ca.gov](mailto:Jeffery.Weiler@dca.ca.gov)

*Website Access:* Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board’s website at [https://www.bvnpt.ca.gov/about-us/bvnpt\\_regulations.shtml](https://www.bvnpt.ca.gov/about-us/bvnpt_regulations.shtml).

**TITLE 16. ARCHITECTS BOARD**

EXPERIENCE EVALUATION

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

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public

hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or email to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than Tuesday, June 4, 2024, by 5:00 p.m.**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 5526, 5550 and 5552 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 5550 and 5552, the Board is considering amending section 117 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, Board regulations 16 CCR section 117 describe the method by which candidates may obtain the required experience to become eligible for licensure as set forth in BPC section 5552. The existing regulation provides a chart of experience followed by explanations of education, training, and practice equivalents as necessary. 16 CCR 117 was last updated in 2014, when the now non-existent National Council of Architectural Registration Boards program was available. The current regulation references an obsolete program, limits the amount of work experience that can be gained while enrolled in an academic setting and the experience submitted as part of an internship program, and lists specific degrees related to architecture.

This proposal would increase the amount of experience allowed for earning a degree related to architecture and broaden the degrees that are related to architecture which will, in turn, reduce delays in licensure. Additionally, increasing the amount of experience that can be granted for completing degree and internship programs will increase efficiencies for staff and reduce unnecessary delays in licensure for candidates.

This regulatory proposal will amend 16 CCR section 117. The amendments to the regulations through this proposed rulemaking are as follows:

Amend 16 CCR section 117 prefatory paragraphs to clarify the Table of Equivalents' structure and purpose.

Amend 16 CCR section 117(a) to clarify language and remove obsolete language and columns from the table that are unnecessary. This will provide a more clear and concise understanding of what the following table will include to make it easier for future licensees to comprehend the requirements for licensure.

Amend 16 CCR section 117(a)(1) to update the language so candidates can clearly locate additional information about relevant degrees and update the table with relevant credit. This will provide a more clear and concise understanding of the acceptable equivalents making it easier for future licensees to comprehend the requirements for licensure.

Amend 16 CCR section 117(a)(2) to update the language so candidates can clearly locate additional information about relevant degrees and update the table with relevant credit.

Amend 16 CCR section 117(a)(3) to remove unnecessary language, update the language so candidates can clearly locate additional information about relevant degrees, increase the maximum amount of credit gained for the degree, and update the table with relevant credit.

Remove former 16 CCR section 117(a)(4) as it duplicates prior subsection (a)(3).

Amend 16 CCR section 117(a)(4) to renumber for consistency, remove unnecessary language, update the language so candidates can clearly locate additional information about relevant degrees, increase the maximum amount of credit gained for the degree, and update the table with relevant credit.

Amend 16 CCR section 117(a)(5) to renumber for consistency and remove obsolete language to provide more concise and clear information for candidates.

Amend 16 CCR section 117(a)(6) to renumber for consistency and remove obsolete language to provide more concise and clear information for candidates.

Amend 16 CCR section 117(a)(7) to renumber for consistency, remove unnecessary language, update the language so candidates can clearly locate additional information about relevant degrees, increase the maximum amount of credit gained for the degree, and update the table with relevant credit.

Amend 16 CCR section 117(a)(8) to relocate former subsection (a)(14) for clarity and relevance.

Amend 16 CCR section 117(a)(9) to renumber for consistency, update language so candidates can clearly locate additional information about work experience, increase the maximum amount of credit that can be gained, and update the table with relevant credit.

Amend 16 CCR section 117(a)(10) to renumber for consistency, clarify documentation sources so the Board receives complete information regarding candidates, update language so candidates can clearly

locate additional information about work experience, and remove extraneous and obsolete language.

Remove 16 CCR section 117(a) former paragraph (10), subparagraphs (A)–(E) to facilitate licensure and align the Board with the national standard, providing consistency to candidates.

Amend 16 CCR section 117(a)(11) to clarify documentation sources so the Board receives complete information regarding candidates, update language so candidates can clearly locate additional information about work experience, increase the maximum amount of credit that can be obtained, and remove extraneous and obsolete language.

Amend 16 CCR section 117(a)(12) to renumber for consistency, update language so candidates can clearly locate additional information about work experience, and remove extraneous and obsolete language.

Amend 16 CCR section 117(a)(13) to renumber for consistency and remove obsolete language.

Amend 16 CCR section 117(a)(14) to renumber for consistency, update language so candidates can clearly locate additional information about work experience, and remove obsolete language.

Amend 16 CCR section 117(a)(15) to renumber for consistency, update language so candidates can clearly locate additional information about work experience, update additional language for clarity, and remove obsolete language.

Amend 16 CCR section 117(a)(16) to renumber for consistency and remove obsolete language.

Amend 16 CCR section 117(a)(17) to renumber for consistency, update language so candidates can clearly locate additional information about work experience, update additional language for clarity, and remove obsolete language.

Amend 16 CCR section 117(a)(18) to renumber for consistency, update language so candidates can clearly locate additional information about work experience, increase maximum credit allowed, update additional language for clarity, and remove obsolete language.

Amend 16 CCR section 117(b) to remove obsolete language that relates to prior method of evaluating candidates.

Remove 16 CCR section 117(b), former paragraph (1) as it is unnecessary language.

Amend 16 CCR section 117(b)(1) to renumber for consistency and remove unnecessary language.

Amend 16 CCR section 117(b)(2) to renumber for consistency and update language to gender neutral pronouns.

Amend 16 CCR section 117(b)(3) to renumber for consistency and update language to correct references.

Amend 16 CCR section 117(b)(4) to renumber for consistency, update language to correct references, simplify and clarify language, and remove unnecessary language.



Amend 16 CCR section 117(b)(5) to renumber for consistency, update language to correct references, simplify and clarify language, and remove unnecessary language. Additionally, specific degrees are replaced with National Center for Education Statistics Classification of Instructional Programs codes for degree programs.

Remove 16 CCR section 117(b), former paragraph (6), subparagraphs (A)–(C) as this refers to prior language that is being removed to align the Board with national standards and facilitate licensure.

Amend 16 CCR section 117(b)(6) to renumber for consistency and update language to ensure submitted degrees are from legitimate educational institutions.

Amend 16 CCR section 117(b)(7) to renumber for consistency and update language to gender neutral pronouns.

Amend 16 CCR section 117(b)(8) to renumber for consistency and update language to correct references.

Amend 16 CCR section 117(b)(9) to renumber for consistency.

Amend 16 CCR section 117(b)(10) to renumber for consistency and update language for clarity.

Amend 16 CCR section 117(c) to remove obsolete and unnecessary language.

Amend 16 CCR section 117(c)(1) to update language to cover the possibility of a candidate obtaining a high school alternative degree.

Amend 16 CCR section 117(c)(2)(A) to include registered professionals for jurisdictions that register instead of license.

Amend 16 CCR section 117(c)(2)(B) to update references, clarify language and include registered architects for jurisdictions that register instead of license.

Amend 16 CCR section 117(c)(3) to clarify the definition of primary source documentation.

Amend 16 CCR section 117(c)(4) to include registered professionals for jurisdictions that register instead of license.

Remove 16 CCR section 117(c), former paragraph (5) as this refers to prior language that is being removed to align the Board with national standards and facilitate licensure and thus provides uniformity of the process and requirements.

Amend 16 CCR section 117(c)(5) to renumber for consistency and update language to comply and remain consistent with the language in BPC section 7068.

Amend 16 CCR section 117(c)(6) to renumber for consistency.

Remove 16 CCR section 117(c), former paragraph (8) as this refers to a program that no longer exists.

Remove 16 CCR section 117(d) to remove obsolete language and reduce confusion.

Remove 16 CCR section 117(d), former paragraph (1) to align the Board with national standards for can-

didates who gained work experience outside of architecture, which will provide uniformity and clarity.

Amend 16 CCR section 117(c)(7) to renumber for consistency, update language to gender neutral pronouns, remove redundant wording, and clarify when candidates can accumulate experience.

Add 16 CCR section 117(c)(7)(A) to renumber for clarity, update the location of an incorporated document, and clarify candidate requirements.

Add 16 CCR section 117(c)(7)(B) to renumber for clarity, clarify required documentation, and remove unnecessary documentation.

Remove 16 CCR section 117(e) and paragraphs (1)–(2) as it was inconsistent with national standards, contains unnecessary language, and created confusion.

### Anticipated Benefits of Proposal

This proposal would provide clarifying and simplified language specific to meeting the experience requirement for an architect license in California. The Board would align with national standards to facilitate licensure, expand methods of gaining experience, clarify how candidates can gain experience, make requirements consistent for all applicants, and remove outdated language.

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

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

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

## 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:** None. The proposed regulations do not result in a fiscal impact to the state. This proposal clarifies how candidates document the experience required for architectural licensure. The Board does not anticipate additional workload or costs resulting from the proposed regulations.

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

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

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

**Mandate Imposed on Local Agencies or School Districts:** None.

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

#### BUSINESS IMPACT ESTIMATES

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

The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence that supports this determination. The Board has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals.

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

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

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

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

The Board has determined that this regulatory proposal will not impact on the following:

- 1) Creation or elimination of jobs within California,
- 2) Creation of new businesses or elimination of existing businesses within California, or
- 3) Expansion of businesses currently doing business within the State.

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

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents by aligning licensure requirements with the national standards.

This regulatory proposal does not affect worker safety because it does not involve worker safety.

This regulatory proposal does not affect the state's environment because it does not involve the environment.

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

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

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

The Board has determined that the proposed regulations will not affect small businesses. Although small businesses owned by candidates of the Board may be impacted, any costs of compliance are a result of current law.

#### CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit written comments relevant to the above determinations at the Board's office at 2420 Del Paso Road, Suite 105, Sacramento, California 95834 during the written comment period, or at the hearing if one is scheduled or requested.

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

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

#### TEXT OF PROPOSAL

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

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written 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: Timothy Rodda  
Address: 2420 Del Paso Road, Suite 105  
Sacramento, CA 95834  
Telephone Number: (279) 895–1246  
Email Address: [timothy.rodde@dca.ca.gov](mailto:timothy.rodde@dca.ca.gov)

The backup contact person is:

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

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Materials regarding this proposal can be found at <https://www.cab.ca.gov/news/laws/proposed-regulation.shtml>.

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board’s website at <https://www.cab.ca.gov/news/laws/proposed-regulation.shtml>.

**TITLE 22. DEPARTMENT OF HEALTH  
CARE ACCESS AND INFORMATION**

CHAPTER 8.2 SECTIONS: 95100–95115

The Department of Health Care Access and Information (Department) proposes adding new Chapter 8.2 Hospital Community Benefits Plan Reports (Sections 95100–95115) to Division 7 of Title 22 of the California Code of Regulations. Chapter 8.2 will im-

plement Chapter 2, Article 2 Hospitals: Community Benefits (Health and Safety Code section 127340 et seq.). The Department proposes to adopt the proposed regulations described herein after considering all comments, objections, and recommendations regarding the proposed action.

Assembly Bill (AB) 204 (Chapter 535, Statutes of 2019) made several changes to California law to address hospitals’ community benefits plan reporting. Health and Safety Code section 127340 includes the following statements: “Private not–for–profit hospitals meet certain needs of their communities through the provision of essential health care and other services. Public recognition of their unique status has led to favorable tax treatment by the government. In exchange, nonprofit hospitals assume a social obligation to provide community benefits in the public interest. Hospitals and the environment in which they operate have undergone dramatic changes. The pace of change will accelerate in response to health care reform. In light of this, significant public benefit would be derived if private not–for–profit hospitals reviewed and reaffirmed periodically their commitment to assist in meeting their communities’ health care needs by identifying and documenting benefits provided to the communities which they serve. California’s private not–for–profit hospitals provide a wide range of benefits to their communities in addition to those reflected in the financial data reported to the state.”

The proposed regulations are necessary to achieve standardization, transparency, and the ability to easily compare information presented in hospitals’ community benefits plans. The proposed regulations also aim to provide clarity on the administrative procedures granted to the Department through this bill, encompassing aspects of compliance, fines, and appeals.

I. PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department 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 before the close of the written comment period.

II. WRITTEN PUBLIC COMMENT PERIOD  
AND CONTACT PERSON

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. All comments must be received by the Department by 5:00 p.m. on June 4, 2024.

Inquiries and written comments regarding the proposed action should be addressed to the primary

contact person named below. Comments delivered by email are suggested. Comments may also be emailed, hand delivered, or mailed.

Alma Lopez, Manager  
Office of Information Services  
Department of Health Care Access and Information  
Telephone: (916) 326–3908  
Email: [communitybenefit@hcai.ca.gov](mailto:communitybenefit@hcai.ca.gov)  
Mailing address: 2020 West El Camino Avenue, Suite 1100  
Sacramento, CA 95833–1880

Inquiries and comments may also be directed to the backup contact person at the same mailing address:

Denard Uy, Section Manager  
Office of Information Services  
Department of Health Care Access and Information  
Telephone: (916) 326–3839  
Email: [communitybenefit@hcai.ca.gov](mailto:communitybenefit@hcai.ca.gov)  
Mailing address: 2020 West El Camino Avenue, Suite 1100  
Sacramento, CA 95833–1880

### III. AUTHORITY AND REFERENCE

Health and Safety Code section 127010 authorizes the Department to adopt these proposed regulations. The specific code sections that are being implemented, interpreted, or made specific are Health and Safety Code sections 127340, 127345, 127346, 127350, 127355, and 127360.

### IV. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### a. *Summary of Existing Laws and Effect of Proposed Regulations*

Health and Safety Code section 127340 includes the following statements: “Private not–for–profit hospitals meet certain needs of their communities through the provision of essential health care and other services. Public recognition of their unique status has led to favorable tax treatment by the government. In exchange, nonprofit hospitals assume a social obligation to provide community benefits in the public interest. Hospitals and the environment in which they operate have undergone dramatic changes. The pace of change will accelerate in response to health care reform. In light of this, significant public benefit would be derived if private not–for–profit hospitals reviewed and reaffirmed periodically their commitment to assist in meeting their communities’ health care needs by identifying and documenting benefits provided to the com-

munities which they serve. California’s private not–for–profit hospitals provide a wide range of benefits to their communities in addition to those reflected in the financial data reported to the state.”

Existing law requires the Department to administer a community benefits report collection program from private, not–for–profit hospitals. The Department is proposing this regulatory action to implement, interpret and make specific Article 2 (Hospital: Community Benefits, sections 127340–127360) of Chapter 2, Part 2, Division 107 of the Health and Safety Code. The regulations being proposed in this rulemaking action aim to formalize the Department’s requirements regarding various aspects, including submission process, data standardization, information related to the hospital’s Community Health Needs Assessment, request for extension of the due date, and protocols for assessing fines and procedure for filing appeals. Specifically, the new regulations address the following:

- Under Health and Safety Code section 127350, private, not–for–profit hospitals are annually required to adopt and update a community benefits plan; and submit to the Department its community benefits plan, which includes, but is not limited to, the activities that the hospitals have undertaken in order to address community needs within its mission and financial capacity no later than 150 days after the hospital’s fiscal year end. Proposed regulation section 95102 specifies that a hospital’s Community Benefit Plan shall be in Portable Document Format (.pdf) and machine–readable. This is necessary to ensure accessibility for the public when viewing Community Benefits Plans from hospitals. Proposed regulation section 95107 specifies the method of submission by utilizing the Department’s online reporting system to provide a streamlined and clear process for hospitals to submit their community benefits plans. Proposed regulation section 95104 provides clarity on the due date of the hospital’s community benefits plan and grants the Department the authority to extend the due date in cases where unforeseen technical issues arise with the online reporting system.
- Under Health and Safety Code section 127350, hospitals are required to assign and report economic value of community benefits provided. Health and Safety Code section 127355 also states that hospitals shall include community benefits categorized into a framework in its community benefits plan which includes medical care services; other benefits for the vulnerable populations and to the broader community; health research, education, and training programs; and nonquantifiable benefits. Proposed regulation section 95100 provides the definitions of the community ben-

efit activities in which hospitals will report the corresponding community benefit spending in a table as specified in Section 95103. The categories outlined in these sections align with categories on the Internal Revenue Service (IRS) Form 990, Schedule H. Non-profit organizations that operate a hospital are required to file this form with the IRS annually. By requiring hospitals to disclose the community benefit expenses for the specified categories outlined in these sections, the Department is attaining its goals related to comparability, standardization, and transparency. These requirements are designed to have a minimal impact on hospitals, as the same information is required to be federally disclosed to the IRS.

- Under Health and Safety Code section 127350, hospitals are required to complete a Community Health Needs Assessment (CHNA) at least every three years. Proposed regulation section 95103 shall require hospitals to disclose additional information regarding their CHNA including but not limited to engagement activities and publication. This is necessary to provide insight of the hospital’s initiatives related to the CHNA, thereby promoting transparency in its operations.
- Under Health and Safety Code section 127346, the Department may grant a hospital a 60–day extension for submitting the annual community benefits plans. Proposed regulation section 95105 specifies that a hospital may request for an extension of the due date to the Department, as well as the prescribed procedure for making such a request. This section also explains that the Department’s online reporting system will automatically assess the extension request and promptly provide an approval or denial based on the availability of the request. This is necessary to streamline the process which aims to expedite the review and response of extension requests ensuring efficiency and convenience for the submitters.
- Under Health and Safety Code section 127350, hospitals under the common control of a single corporation or another entity may submit a single consolidated report, as long as each hospital’s community benefit financial data and description of the benefits provided to the communities are presented separately. Proposed regulation section 95106 clarifies that hospitals may request for modification to submit a community benefits plan separately. This section also explains that a licensee with an approved modification to report separately, each hospital shall be subjected to the fines pursuant to proposed regulation section 95108. Lastly, this section states that modifica-

tions will remain valid unless revoked or further modifications are approved by the Department.

- Health and Safety Code section 127346 grants the authority to the Department to impose a fine not to exceed five thousand dollars (\$5,000) for failure to adopt, update, or submit a community benefits plan. Proposed regulation section 95108 specifies the particulars under which a hospital may be assessed a fine for failing to comply with requirements. This section specifies that if a hospital fails to submit a community benefits plan by the due date, considering an approved extension of the due date, the Department may assess a fine of one hundred dollars (\$100) per day for each day that a report is not filed with the Department. Furthermore, this section states that if a hospital’s report is 120 days delinquent, the Department shall determine and assess the maximum allowable fine not to exceed five thousand dollars (\$5,000). This is necessary to ensure that fines are assessed within a reasonable timeframe after the due date and do not extend into the following report year. Proposed regulation section 95109 specifies that the Department will calculate the accrued fine pursuant to proposed regulation section 95108; and may not exceed \$5,000. This section also states that the Department will inform the hospital’s designated contact person(s) via email of the accrued fine upon submission of a late report or an approval of extension request after the due date. This is necessary to ensure the designated hospital contact(s) is duly notified of the accrued fine. Proposed regulation sections 95110 through 95115 outlines the provisions by which a hospital that receives a notice of accrued fine retains the option to appeal the fine. Section 95110 provides guidance on how a hospital may file an appeal, the time limits on filing an appeal, the information required in a notice of appeal, and where to serve the notice. Section 95111 specifies the contact information of the Department’s Hearing Officer. Section 95112 implements additional prehearing rules including how the parties will be notified of appealing hearing date, process timeline to submit exhibits, and how to request for change for hearing date or the manner of how the hearing will be held. This section also clarifies how to request consolidation, how to request for an interpreter, and arrange for a court reporter. Section 95113 implements the hearing procedures, including who will conduct the hearing, the method and location of the hearing, rules for the admission of evidence, the testimony at the hearing shall be taken under oath or affirmation, that the hearing may be recorded and open to the public. Section 95114 implements the abili-

ty for parties to reach a settlement and who communicates the settlement to the Hearing Officer. Section 95115 makes specific the Director’s final review process and steps the Director will take to finalize the decision.

*b. Objectives and Anticipated Benefits of Proposed Regulations*

The proposed regulations are necessary to achieve standardization, transparency, and the ability to easily compare information presented in hospitals’ community benefits plans. Nonprofit organizations that operate a hospital are required to complete and file IRS Form 990, Schedule H with the IRS. The purpose of this schedule is to gather details about a tax-exempt hospital’s activities, policies, and community benefit programs. The categories outlined in the proposed regulations align with the categories on the IRS Form 990, Schedule H. This alignment simplifies hospitals’ disclosure of required information, as it reflects the information already provided to the IRS. Furthermore, mandating hospitals to report with these predefined categories enhances comparability with other hospitals or hospital attributes.

The proposed regulations also aim to provide clarity on the administrative procedures of the Department, encompassing aspects of compliance, fines, and appeals. By clarifying the submission and document requirements, extension request process, and designation of hospital contact person(s), hospitals are more informed and will comply with the requirements pursuant to Chapter 2, Article 2. Hospitals: Community Benefits (Health and Safety Code section 127340 et seq.). Lastly, the regulation outlines the circumstances under which hospitals may face fines for non-compliance. Regulations provide clarity on the fine rate applicable for late submissions or extension requests, enhancing transparency in the fine assessment process for hospitals. Regulations also establishes a procedure for hospitals to appeal the fines assessed due to non-compliance. This ensures that the conducted appeals hearings maintain fairness and consistency.

*c. Determination of Inconsistency/Incompatibility with Existing State Regulations*

As required by Government Code section 11346.5 (a)(3)(D), the Department evaluated the language contained in the proposed regulations. The Department has determined that these proposed regulations are not inconsistent with or incompatible with existing state regulations. These regulations are necessary to implement a new statutorily mandated program.

*d. Documents Incorporated by Reference*

There are no documents incorporated by reference.

**V. DISCLOSURES REGARDING THE PROPOSED ACTION**

The Department has made the following initial determinations:

- a. Mandate on local agencies and school districts: None.
- b. Cost or savings to any state agency: The Department has identified costs for fiscal year 2023–24. These costs were included in the approved fiscal year 2020–21 Budget Change Proposal (BCP) for AB 204 to implement the requirements of this bill.
- c. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500–17630: None.
- d. Other nondiscretionary cost or savings imposed on local agencies: None.
- e. Cost or savings in federal funding to the state: None.
- f. Cost impact on a representative person or business: New regulations are required to implement Chapter 8, Article 2. Hospitals: Community Benefits (Health and Safety Code section 127340–127360), hospitals may incur up to \$80 per year to upload the statutorily required documents and provide required information to the online reporting system prescribed by these proposed regulations.
- g. Statewide adverse economic impact directly affecting businesses and individuals: The Department has made an initial determination that the regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- h. Significant effect on housing costs: None.
- i. Cost impact on small businesses: This proposed action does not affect small business because no entities regulated under the proposed action are small businesses.

**VI. STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ANALYSIS (EIA)**

New regulations are required to implement Chapter 8, Article 2. Hospitals: Community Benefits (Health and Safety Code section 127340–127360). The Department has narrowly tailored the proposed regulations to implement the statutory requirements for the reporting program. The proposed regulations impose only minor additional reporting or other requirements on any businesses, organizations, or individuals.

Therefore, the Department concludes that:



- (1) This regulatory action will not create jobs within the state;
- (2) This regulatory action will not eliminate jobs within the state;
- (3) This regulatory action will not create new businesses;
- (4) This regulatory action will not eliminate existing businesses;
- (5) This regulatory action will not expand businesses currently doing business within the state;
- (6) The benefits of the regulations to the health and welfare of California residents are to achieve the goals of AB 204, as related to Chapter 8, Article 2. Hospitals: Community Benefits (Health and Safety Code section 127340–127360), by modifying existing reporting requirements of community benefits plans from hospitals, where Health and Safety Code section 127340 includes the following statements: “Private not–for–profit hospitals meet certain needs of their communities through the provision of essential health care and other services. Public recognition of their unique status has led to favorable tax treatment by the government. In exchange, nonprofit hospitals assume a social obligation to provide community benefits in the public interest.” The proposed regulations achieve standardization and transparency on reported community benefits from hospitals to the vulnerable population and the broader community. Proposed regulations will allow the public the ability to easily compare information presented in hospitals’ community benefits plans. The proposed regulations also aim to provide clarity on the administrative procedures granted to the Department through this bill, encompassing aspects of compliance, fines, and appeals.
- (7) This regulatory action will not impact workers’ safety;
- (8) This regulatory action will not impact the state’s environment;

**VII. STATEMENT OF NECESSITY FOR REPORTING REQUIREMENT**

It is necessary for the health, safety, or welfare of the people of this state that this regulation which requires a report apply to businesses.

**VIII. REASONABLE ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would

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

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

**IX. AVAILABILITY OF EXPRESS TERMS, INITIAL STATEMENT OF REASONS, AND INFORMATION UPON WHICH PROPOSED RULEMAKING IS BASED**

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address given for the contact persons. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the text of the proposed regulations, information upon which proposed rulemaking is based, the initial statement of reasons, and an economic impact analysis (contained in the initial statement of reasons).

The text is available on the Department’s website at <https://hcai.ca.gov/about/laws–regulations/>.

**X. AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL**

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 the regulations as revised.

Please send requests for copies of the modified text to the listed contact person. The modified text will also be available on the website at <https://hcai.ca.gov/about/laws–regulations/>. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**XI. AVAILABILITY OF FINAL STATEMENT OF REASONS**

The Final Statement of Reasons, including all of the comments and responses, will be available, after its completion, through the Department’s website at <https://hcai.ca.gov/about/laws–regulations/>. The Final

Statement of Reasons will also be available for review from the designated contact person.

**XII. AVAILABILITY OF DOCUMENTS  
ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the proposed regulations can be accessed through the Department’s website at <https://hcai.ca.gov/about/laws-regulations/>.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF  
FISH AND WILDLIFE**

**CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
PHILO-GREENWOOD ROAD  
OVER NAVARRO RIVER  
BRIDGE REHABILITATION AND  
WIDENING PROJECT  
2080-2024-004-01  
MENDOCINO COUNTY**

The California Department of Fish and Wildlife (CDFW) received a notice on April 2, 2024, that the Mendocino County Department of Transportation (County) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the rehabilitation and widening of the existing single lane bridge in order to improve it to current design standards, increase public safety and improve transportation mobility. Proposed activities will include, but are not limited to, roadway realignment, installation of temporary water exclusion structures, excavation and rock removal, widening of the existing arch span, and replacement the timber approach trestle with a 3-span concrete approach. The proposed project will occur on the Philo-Greenwood Bridge in unincorporated Mendocino County 2.5 miles northwest of the community of Philo in the Anderson Valley.

The National Marine Fisheries Service (NMFS) issued a federal biological opinion (Service Ref. Number WCRO-2021-02768) in a memorandum to the California Department of Transportation on May 5, 2022, which considered the effects of the proposed project on state and federally threatened central California coast coho salmon (*Oncorhynchus kisutch*). On November 2, 2023, NMFS issued an amendment to

the biological opinion. The original biological opinion and amendment are collectively referred to as “BO.”

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

**DEPARTMENT OF  
FISH AND WILDLIFE**

**FISH AND GAME CODE SECTION 1653  
CONSISTENCY DETERMINATION  
REQUEST FOR  
FIVE SPRINGS AND DEEP  
CREEK PROJECT  
(TRACKING NUMBER:  
1653-2024-135-001-R1)  
LASSEN COUNTY**

California Department of Fish and Wildlife (CDFW) received a Request to Approve on April 9<sup>th</sup>, 2024, that the Lassen Land and Trails Trust proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves spreading and slowing flows along two incised spring-fed systems to aggrade and widen riparian areas via beaver dam analogs and other erosion control structures. The proposed project will be carried out on Five Springs Creek and Deep Creek, located 3-5 miles North of Susanville, Lassen, California.

On April 9<sup>th</sup>, 2024 the Lahontan Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Five Springs and Deep Creek Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 6A182403003) for coverage under the General 401 Order on April 9<sup>th</sup>, 2024

The Lassen Land and Trails Trust is requesting a determination that the project and associated documents

are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the Lassen Land and Trails will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, the Lassen Land and Trails will have the opportunity to submit under Fish and Game Code section 1652.

**DEPARTMENT OF  
FISH AND WILDLIFE**

CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
LAGUNITAS CREEK WATERSHED  
ENHANCEMENT PROJECT  
2080–2024–005–03 (R)  
MARIN COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on April 5, 2024, that Marin Municipal Water District proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves restoration activities at eight sites within the Lagunitas Creek watershed to improve adult spawning and juvenile rearing habitat for coho salmon. Proposed activities will include, but are not limited to, creating *Riffle–pool–wood structures* by adding large wood, boulders, and gravel in-stream, arranging wood to increase trapping, sorting, and storage of gravel, and adding gravel of suitable sizes for spawning. The Project is located in the middle of the Lagunitas Creek watershed in west Marin County.

The National Marine Fisheries Service issued a federal programmatic biological opinion (PBO)(NMFS Ref. Number WCR–2015–3755) in a memorandum to the National Oceanic and Atmospheric Administration Restoration Center (NOAA RC) and the U.S. Army Corps of Engineers on June 4, 2016, which considered the effects of the eligible restoration projects on multiple federally listed species. On October 13, 2023, Marin Municipal Water District applied to NOAA RC for inclusion of the proposed project under the PBO for state and federally endangered Central California Coast coho salmon (*Oncorhynchus kisutch*). On

March 7, 2024, NOAA RC determined that the project fits within the scope of the PBO.

Additionally, the U.S. Fish and Wildlife Service (USFWS or Service) issued a federal programmatic and conference biological opinion (PCBO)(Service Ref. Number 2022–0005149–S7) in a memorandum to the U.S. Army Corps of Engineers on August 31, 2022, which considered the effects of the eligible restoration projects on multiple federally listed species. On December 8, 2023, Marin Municipal Water District applied to USFWS for inclusion of the project under the PCBO for state and federally endangered California freshwater shrimp (*Syncaris pacifica*) and the state and federally threatened Northern spotted owl (*Strix occidentalis caurina*). On April 4, 2024, USFWS determined that the project fits within the scope of the PCBO.

Pursuant to California Fish and Game Code section 2080.1, Marin Municipal Water District is requesting a determination that the Incidental Take Statements (ITSs) along with the associated PBO and PCBO, project-specific applications and project-specific approvals are consistent with CESA for purposes of the proposed project. If CDFW determines the ITSs along with the associated PBO and PCBO, project-specific applications and project-specific approvals are consistent with CESA for the proposed project, Marin Municipal Water District will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**DEPARTMENT OF  
FISH AND WILDLIFE**

FISH AND GAME CODE SECTION 1653  
CONSISTENCY DETERMINATION  
REQUEST FOR  
LOS BANOS WILDLIFE AREA — MUD  
SLOUGH RESTORATION UNIT WETLAND  
ENHANCEMENT PROJECT  
(TRACKING NUMBER:  
1653–2024–134–001–R4)  
MERCED COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on April 4<sup>th</sup>, 2024, that CDFW proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves modifying existing site features along Mud Slough to increase water delivery and conveyance. The proposed project will be carried out on Mud Slough, located at 18110 Henry Miller Ave, Los Banos, Merced County, California.

On March 22<sup>nd</sup>, 2024, the Central Valley Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Los Banos Wildlife Area — Mud Slough Restoration Unit Wetland Enhancement Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 5B24CR00110; ECM PIN Number SB12006GN for coverage under the General 401 Order on March 22<sup>nd</sup>, 2024.

CDFW is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, CDFW will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, CDFW will have the opportunity to submit under Fish and Game Code section 1652.

**DEPARTMENT OF FISH AND WILDLIFE**

**HABITAT RESTORATION AND ENHANCEMENT ACT  
CONSISTENCY DETERMINATION  
NUMBER 1653-2024-133-001-R2**

**Project:** Leek Springs Meadow Restoration Project

**Location:** El Dorado County

**Applicant:** American River Conservancy

**Background**

*Project Location:* The Leek Springs Meadow Restoration Project (Project) is located north of U.S. Highway 88 and south of Mormon Emigrant Trail, in Leek Springs Valley, El Dorado County. The approximate center of the Project area is at latitude 38.6326° and longitude -120.2523°, at a property owned by the California Department of Fish and Wildlife (CDFW), Assessor Parcel Number (APN) 039-270-033. The Project affects the North Fork Cosumnes River.

*Project Description:* The American River Conservancy, as represented by Cathy Mueller (Applicant), proposes to enhance or restore habitat within the North Fork Cosumnes River at Leek Springs Meadow to provide a net conservation benefit for high elevation wet meadow habitat that supports willow flycatcher and moonworts. The Project will enhance degraded wet meadow hydrology with low-impact processed-based restoration techniques, resulting in the improvement of 40 to 80 acres of meadow. The North Fork Cosumnes River supports populations of Sierra Nevada yellow-legged frog (*Rana sierrae*), willow flycatcher (*Empidonax traillii*), California spotted owl (*Strix occidentalis occidentalis*), and three moonwort species (*Botrychium spp.*).

The Project activities include hand installation of approximately 100 beaver dam analogs and/or pole-assisted log structures (created with native materials harvested on site), removal of encroaching lodgepole pine (*Pinus contorta*), and removal of a defunct culvert. Detailed Project plans, discussion of proposed work, species protection measures, site photos, and maps are on file with CDFW’s Habitat Conservation Planning Branch (HCPB).

*Project Size:* The total area of ground disturbance associated with the Project is approximately 3.23 acres and 500 linear feet. Project size calculations were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

*Project Associated Discharge:* The Project may discharge the following types of materials into Waters of the State (as defined by Water Code section 13050 subdivision (e)): (1) soil, (2) native vegetation, (3) large woody material.

*Project Timeframes:* Start date: May 2024.

Completion date: December 2026.

Work window: May to November.

*Water Quality Certification Background:* The Project’s primary purpose is habitat restoration intended to improve the quality of waters in California and improve hydrologic function of a large meadow. The Central Valley Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 5A09CR00238 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to

willow flycatcher, California spotted owl, Sierra Nevada yellow-legged frog, and moonworts.

*Receiving Water:* North Fork Cosumnes River.

*Affected Area:* Permanent area impacted: 3.2 acres.

Temporary area impacted: 0.03 acres.

Length temporarily impacted: 0 linear feet.

Length permanently impacted: 500 linear feet.

*Dredge Volume:* None.

*Discharge Volume:* 25–50 shrubs of native vegetation (willows); approximately 100 large woody material structures salvaged onsite from existing trees in the project area (lodgepole pines) and posts from offsite; and 50 cubic yards of soil and/or sod.

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

On March 11, 2024, the Director of CDFW received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on March 12, 2024, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z–2024–0312–03) on March 22, 2024. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

#### **Determination**

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

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

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

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following cate-

gories: (1) General Species Measures; (2) Willow Flycatcher Measures; (3) California Spotted Owl Measures; (4) Sierra Nevada Yellow-Legged Frog Measures; (5) Special-Status Plant Protection/Avoidance Measures. The specific avoidance and minimization requirements are found in attachments to the NOI, *Species Protection Measures and Biological Survey Report*, prepared by the American River Conservancy.

#### **Monitoring and Reporting**

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's monitoring and reporting plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Monitoring and Reporting Plan*, prepared by the American River Conservancy.

#### **Notice of Completion**

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

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

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. The Applicant shall include the project name and WDID number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the Monitoring and Reporting Plan, Monitoring Report, and Notice of Completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: [Kaylee.Griffith@wildlife.ca.gov](mailto:Kaylee.Griffith@wildlife.ca.gov), copy: [R2LSA@wildlife.ca.gov](mailto:R2LSA@wildlife.ca.gov).

#### **Project Authorization**

Pursuant to Fish and Game Code section 1654, CDFW's approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of Division 2 and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, the Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.



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

**DEPARTMENT OF  
FISH AND WILDLIFE**

**CALIFORNIA ENDANGERED SPECIES ACT  
CONSISTENCY DETERMINATION  
NUMBER 2080R–2024–001–01**

**Project:** South Fork Ten Mile River Salmonid Enhancement Project

**Location:** Mendocino County

**Applicant:** The Nature Conservancy

**Background**

The Nature Conservancy (Applicant) proposes to enhance existing habitat and increase floodplain connectivity in the lower South Fork Ten Mile River. The South Fork Ten Mile River Salmonid Enhancement Project (Restoration Project) includes construction of alcoves, creation of a multi-threaded channel complex, installation of large wood features, and revegetation with native species. The newly constructed alcoves will be tidally influenced and will provide important off-channel habitat for salmonids and other native species. Large wood features will be installed in the alcoves and revegetated with native sedges and rushes. The multi-threaded channel will be created by excavating and removing gravel that was deposited during a 1965 flood event. The multi-threaded channel will also be tidally influenced and will provide additional off-channel habitat. Accelerated recruitment techniques will be used to secure wood in the mainstem of the South Fork Ten Mile River by pinning logs between riparian trees and vertical log anchors that will be vibrated into the streambed.

The Restoration Project activities described above are expected to take<sup>1</sup> Central California Coast coho salmon (*Oncorhynchus kisutch*) (Covered Species) where those activities take place within the South Fork Ten Mile River. In particular, the Covered Species

could be taken because of movement out of harm's way prior to implementation of restoration actions. The Covered Species is designated as an endangered species pursuant to both the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (a)(2)(N).)

Covered Species individuals are documented as present at the Restoration Project site. Because of the proximity of the nearest documented Covered Species, dispersal patterns of the Covered Species, and the presence of suitable habitat for the Covered Species within the Restoration Project site, the National Marine Fisheries Service (NMFS) determined that the Covered Species is reasonably certain to occur within the Restoration Project site and that Restoration Project activities are expected to result in take of the Covered Species. NMFS anticipates that an estimated maximum of 300 juvenile Covered Species could be captured, of which nine may be killed because of implementing the proposed Restoration Project. NMFS anticipates that the Restoration Project will improve salmonid habitat and salmonid survival over the long-term.

The intent of the Restoration Project is to improve the availability of off-channel rearing habitat for Covered Species through the creation of alcoves and increase in floodplain connectivity. NMFS has determined that the long-term effects of Restoration Project actions will be beneficial to the Covered Species and are expected to result in increased usage of the area by Covered Species. According to NMFS, construction of the Restoration Project will result in habitat enhancement and improved floodplain connectivity along 0.4 miles of the South Fork Ten Mile River.

Because the Restoration Project is expected to result in take of a species designated as endangered under the federal ESA, the Central Coastal California Office of the National Oceanic and Atmospheric Administration Restoration Center (NOAA RC) and the U.S. Army Corps of Engineers, San Francisco District Regulatory Division (Corps) consulted with NMFS pursuant to section 7 of the federal ESA. On June 14, 2016, NMFS issued a programmatic biological opinion, entitled Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson–Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Program for restoration projects within the NOAA Restoration Center's Central Coastal California Office jurisdictional area in California (NMFS Consultation No: WCRO–2015–3755) to the NOAA RC and the Corps for eligible restoration projects. On August 3, 2022, NMFS issued an addendum to that programmatic biological opinion. The June 14, 2016, programmatic biological opinion and the August

<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 Information 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").



3, 2022, addendum to that programmatic biological opinion are hereinafter referred to collectively as the PBO. The PBO describes eligible restoration projects and requires all project applicants operating under the PBO to comply with terms of the PBO and its incidental take statement (ITS). The Applicant submitted a project-specific application dated December 21, 2023, to the NOAA RC for the Restoration Project, a copy of which is attached hereto and incorporated herein as Exhibit 1. The NOAA RC issued a project-specific approval to the Applicant for the Restoration Project on March 7, 2024, a copy of which is attached hereto and incorporated herein as Exhibit 2. The NOAA RC's project-specific approval for the Restoration Project requires the Applicant to comply with the terms of the ITS, along with the accompanying PBO, project-specific application, and project-specific approval, when conducting the Restoration Project.

On March 8, 2024, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITS, along with the accompanying PBO, project-specific application, and project-specific approval for the Restoration Project are collectively consistent with CESA for purposes of the Restoration Project and the Covered Species. (Cal. Regulatory Notice Register 2024, Number 13-Z, p. 372.)

**Determination**

Upon evaluation of the Restoration Project, CDFW has determined that the ITS, along with its accompanying PBO, project-specific application, and project-specific approval, is consistent with CESA as to the Restoration Project and the Covered Species because the measures contained in the ITS, along with the accompanying PBO, project-specific application, and project-specific approval, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (a) and (c), for authorizing take of CESA-listed species. Specifically, CDFW finds that: (1) take of the Covered Species will be for management purposes; (2) the measures required are roughly proportional in extent to any impact on the Covered Species that is caused by the Restoration Project; (3) the measures required maintain the Permittee's project purpose to the greatest extent possible; and (4) the Restoration Project will not jeopardize the continued existence of the Covered Species.

*Avoidance, Minimization, and Mitigation Measures.* The avoidance, minimization, and mitigation measures in the ITS and PBO include, but are not limited to, the following:

- 1) The general construction season shall be from June 15 to October 31. Applicant shall ensure that restoration, construction, Covered Species relocation, and dewatering activities within any wetted

or flowing stream channel shall occur only within this period. Exceptions regarding the construction season will be considered on a case-by-case basis only if justified and if measurable precipitation sufficient to produce runoff is not forecast to occur during any of the above activities, and if approved by the NOAA RC, Corps, and NMFS. Revegetation activities including limited soil preparation outside the active channel may occur beyond October 31 if necessary to better ensure successful plant establishment during the onset of winter precipitation.

- 2) Applicants shall ensure Covered Species are excluded from re-entering the work area by blocking the stream channel above and below the work area with fine-meshed net or screens. Mesh will be no greater than 1/8-inch diameter. The bottom of the seine must be completely secured to the channel bed to prevent fish from reentering the work area. Exclusion screening must be placed in areas of low water velocity to minimize Covered Species impingement. Upstream and downstream screens must be checked daily (prior to, during, and after instream activities) and cleaned of debris to permit free flow of water. Block nets shall be placed and maintained throughout the construction period at the upper and lower extent of the areas where fish will be removed.
- 3) Prior to dewatering a construction site, qualified individuals will capture and relocate Covered Species to avoid direct mortality and minimize take.
- 4) Applicant shall ensure that debris, soil, silt, excessive bark, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from projected related activities, are prevented from contaminating the soil and/or entering the waters of the State. Any of these materials, placed within or where they may enter a stream or lake, by the Applicant or any party working under contract, or with permission of the Applicant, shall be removed immediately. During Restoration Project activities, Applicant shall ensure that all trash that may attract potential predators of salmonids are properly contained, removed from the work site, and disposed of daily.
- 5) No heavy equipment will enter wet channels.
- 6) Areas for fuel storage, refueling, and servicing of construction equipment must be in an upland location.

*Monitoring and Reporting Measures.* The monitoring and reporting measures in the ITS and PBO include, but are not limited to, the following:

- 1) Following construction, the Restoration Project Applicant must submit a postconstruction implementation report to the NOAA RC and the Corps. Implementation reports shall include project as-built plans and photo documentation of project implementation taken before, during, and after construction, using CDFW photo monitoring protocols.
- 2) Annually, the NOAA RC and Corps will prepare a report summarizing results of Restoration Projects implemented under this Program during the most recent construction season, and results of post-construction implementation and effectiveness monitoring for that year and previous years. The annual report shall include a summary of the specific type and location of each Restoration Project and the evolutionarily significant unit or distinct population segment affected.

Although not a condition of the PBO, CDFW requests a copy of the monitoring reports as well. The reports should include dates construction occurred and the success of revegetation and restoration.

**Conclusion**

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Restoration Project for take of the Covered Species, provided the Applicant implements the Restoration Project as described in the ITS, along with the accompanying PBO, project-specific application, and project-specific approval, including adherence to all measures contained therein, and complies with the measures and other conditions described in the ITS, along with the accompanying PBO, project-specific application, and project-specific approval. If there are any substantive changes to the Restoration Project, including changes to the measures, or if NMFS amends or replaces the ITS, accompanying PBO, or project-specific approval, the Applicant shall be required to obtain a new consistency determination or a CESA take permit for the Restoration Project from CDFW. (See Fish & Game Code, §§ 2080.1, 2081, subdivisions (a) and (c).) CDFW’s determination that the ITS, along with the accompanying PBO, project-specific application, and project-specific approval, is consistent with CESA is limited to the Covered Species and the Restoration Project.

**DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL**

NOTICE OF PROPOSED HSAA AND  
CERCLA ADMINISTRATIVE  
*DE MINIMIS* SETTLEMENT FOR THE  
BKK CLASS I LANDFILL

30-DAY PUBLIC COMMENT PERIOD:  
APRIL 19, 2024 THROUGH MAY 20TH, 2024

**WHAT IS BEING PROPOSED:** The California Department of Toxic Substances Control (“DTSC”) invites public comment on a Proposed Administrative Consent Order and Settlement Agreement — De Minimis Contributors (“Proposed Order and Agreement”), Docket Number HSA-FY23/24-101. In accordance with applicable law, DTSC hereby provides notice of a proposed de minimis settlement concerning the BKK Class I Landfill in West Covina, California (the “Site”).

DTSC proposes to enter into this order and *de minimis* settlement pursuant to the Carpenter–Presley–Tanner Hazardous Substance Account Act (HSAA), Health and Safety Code sections 78650, 78870, 79650, 79670, and 79920,<sup>1</sup> and Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) sections 107 and 113 (42 U.S.C. §§ 9607, 9613). This settlement is intended to resolve liabilities of the 4 settling parties identified below (individually, “*De Minimis* Settling Party,” and collectively, “*De Minimis* Settling Parties”) for past and future response costs incurred at the Site. The Proposed Order and Agreement serves as an administrative order and settlement with DTSC, and a private party settlement with the BKK Working Group (“BWG”), a group comprised of potentially responsible parties that have incurred response costs related to the Site. The *De Minimis* Settling Parties will receive a Site-wide covenant not to sue from DTSC and the BWG, as well as contribution protection for the specific matters addressed in the settlement, pursuant to section 79920(b)<sup>2</sup> of the California Health and Safety Code, and section 113(f)(2) of CERCLA (42 U.S.C. § 9613(f)(2)).

The *De Minimis* Settling Parties collectively sent a combined total of 6,616.61 tons of waste to the Site,

<sup>1</sup> Health and Safety Code sections 25358.3, 25360, and 25360.6 were previously referenced in the Proposed Order and Agreement. These sections were subsequently renumbered pursuant to the Hazardous Substance Account Recodification Act, a non-substantive recodification of the Hazardous Substance Account Act. The recodification became operative on Jan. 1, 2023, and effective on Jan. 1, 2024. This public notice cites the section numbers as updated by the Hazardous Substance Recodification Act.

<sup>2</sup> Formerly cited as Health and Safety Code section 25360.6.

which represents 0.12 percent of the approximately 5.18 million tons of manifested waste disposed of at the Site. This settlement requires the *De Minimis* Settling Parties to collectively pay a combined total of \$3,089,397.81. Ten percent of the settlement amount will be paid to DTSC as reimbursement for past response costs relating to the Site. After certain costs related to the Proposed Order and Agreement are reimbursed to DTSC and the BWG, as specified in the Second Disbursement Amendment to the Third Partial Consent Decree (see *Cal. Dep't of Toxic Substances Control v. Am. Honda Motor Co. Inc.*, Number 2:15–CV–00729–DDP–AJW (C.D. Cal., Feb. 2, 2015)), the remaining settlement amount will be distributed to the Third–Party PRP Settlement Escrow Account, which will fund future response actions at the Site.

The identities of the *De Minimis* Settling Parties that have elected to settle their liability with DTSC and the BWG under Proposed Order and Agreement, Docket Number HSA–FY23/24–101 are as follows:

1. **American Racing Equipment, LLC/Los Angeles Plating Co.**
2. **California Amforge Corp.**
3. **Haliburton Energy Services, Inc. on behalf of Haliburton Services; and**
4. **Sigma Plating Co., Inc.**

**HOW YOU CAN PARTICIPATE:** You can review the Proposed Order and Agreement and submit your comments, if any, to DTSC.

**WHERE TO FIND THE PROPOSED ORDER AND AGREEMENT:** The Proposed Order and Agreement can be found for review at the following locations:

- (1) On the following DTSC website: <https://dtsc.ca.gov/third-party-initiative-cost-recovery>.
- (2) At the Walnut Library: 21155 La Puente Road, Walnut, CA 91789. The telephone number for the Walnut Library is (909) 595–0757.
- (3) In EnviroStor, which can be accessed at [https://www.envirostor.dtsc.ca.gov/public/profile/report.asp?global\\_id=19490005](https://www.envirostor.dtsc.ca.gov/public/profile/report.asp?global_id=19490005) (additional Site documents also can be found in EnviroStor).

**WHERE TO SUBMIT COMMENTS:** Comments should be in writing and should be submitted to BKK Third Party Initiative, 8800 Cal Center Drive, Sacramento, CA 95826 or [BKKPRPsupport@dtsc.ca.gov](mailto:BKKPRPsupport@dtsc.ca.gov). All comments should include “BKK Proposed Order and Agreement Docket Number HSA–FY23/24–101” in the subject line of the email or letter.

DTSC will accept written comments relating to the Proposed Order and Agreement between **April 19, 2024** and **May 20th, 2024**. DTSC will consider all comments postmarked or received during this period and may modify or withdraw the Proposed Order and Agreement with respect to any *De Minimis* Settling

Party if any comment discloses facts or considerations indicating that the Proposed Order and Agreement is inappropriate, improper, or inadequate as to that *De Minimis* Settling Party.

**FOR ADDITIONAL QUESTIONS ABOUT THE SITE:** Please contact the following DTSC staff:

BKK Third Party Initiative  
8800 Cal Center Drive  
Sacramento, CA 95826  
(833) 343–0053  
[BKKPRPsupport@dtsc.ca.gov](mailto:BKKPRPsupport@dtsc.ca.gov)

Elsa Lopez  
Public Participation Specialist  
9211 Oakdale Ave.  
Chatsworth, CA 91311  
(818) 717–6566  
[Elsa.Lopez@dtsc.ca.gov](mailto:Elsa.Lopez@dtsc.ca.gov)

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(916) 282–8941  
[Elizabeth.Leslie-gassaway@dtsc.ca.gov](mailto:Elizabeth.Leslie-gassaway@dtsc.ca.gov)

In order to receive public notices for future proposed *de minimis* settlements via email, please visit <https://dtsc.ca.gov/dtsc-e-lists> and subscribe to the E–List titled, “BKK Class I Landfill PRP Public Notices.”

## DEPARTMENT OF TOXIC SUBSTANCES CONTROL

DRAFT FEASIBILITY STUDY/ REMOVAL ACTION WORKPLAN FOR DOMINGUEZ GOLF COURSE & ADJACENT PROPERTY CARSON, CALIFORNIA 90745

PUBLIC COMMENT PERIOD:  
APRIL 22, 2024 THROUGH MAY 22, 2024

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) provides a Public Comment Period on the draft Feasibility Study/Removal Action Workplan (FS/RAW) for Dominguez Golf Course & Adjacent Property located at 19800 S Main Street in Carson, California 90745. The draft FS/RAW is an environmental cleanup plan to address soil cover contaminated heavy metals and polychlorinated biphenyls (PCBs) in small sections of the existing soil cover located in the Large Vacant Parcel remaining at the Site.

The draft FS/RAW evaluates three cleanup alternatives: (1) No Action; (2) Soil excavation and backfilled with clean soil, maintain existing soil cover, a soil management plan, landfill gas monitoring and land use controls; and (3) Soil excavation and backfilled with clean soil, engineered landfill cap, soil management plan, landfill gas monitoring, landfill gas collection/treatment system, building protective systems, and land use controls. Alternative 2, is the proposed remedy for the Site.

**PUBLIC COMMENT PERIOD (April 22, 2024 through May 22, 2024):** DTSC invites you to review and comment on the draft FS/RAW. All comments must be mailed or emailed to **Nick Ta**, DTSC Project Manager, at 5796 Corporate Avenue, Cypress, California, 90630, email [Nicholas.Ta@dtsc.ca.gov](mailto:Nicholas.Ta@dtsc.ca.gov), *postmarked by May 22, 2024.*

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):** DTSC is required by CEQA to evaluate whether the implementation of the FS/RAW will have any potentially significant adverse impacts on the environment before approving the project. DTSC performed a CEQA analysis and determined that the proposed remedial activities are exempted under the Class 30 Categorical Exemption Cal. Code Regs, Title 14, §15330. A Notice of Determination (NOD) will be filed with the Office of Planning and Research/State Clearinghouse after the FS/RAW is approved.

**MORE INFORMATION:** The draft FS/RAW and other Site documents are available for review, electronically, on DTSC's project database, EnviroStor: [https://www.envirostor.dtsc.ca.gov/public/profile\\_report?global\\_id=60000597](https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=60000597).

You may also review the draft FS/RAW & other Site documents, by appointment, at the following locations:

**Carson Public Library**

151 E Carson Street  
Carson, CA 90745  
Phone: (310) 830-0901

**DTSC Cypress Regional Office**

5796 Corporate Avenue  
Cypress, California 90630  
Phone: (714) 484-5336 (Call for Appointment)

**CONTACT INFORMATION:** If you have any questions or concerns, please contact:

**Nick Ta**

Project Manager  
(714) 484-5381  
[Nicholas.Ta@dtsc.ca.gov](mailto:Nicholas.Ta@dtsc.ca.gov)

**Jessica Anderson**

Public Participation Specialist  
(714) 484-5354  
[Jessica.Anderson@dtsc.ca.gov](mailto:Jessica.Anderson@dtsc.ca.gov)

**For Media: Elizabeth Leslie-Gassaway**

Public Information Officer  
(916) 282-8941  
[Elizabeth.Leslie-Gassaway@dtsc.ca.gov](mailto:Elizabeth.Leslie-Gassaway@dtsc.ca.gov)

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

**DEPARTMENT OF STATE HOSPITALS**

OFFICE OF ADMINISTRATIVE LAW

ACCEPTANCE OF PETITION TO  
REVIEW ALLEGED  
UNDERGROUND REGULATIONS

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

The Office of Administrative Law has accepted for consideration a petition challenging the Department of State Hospitals' Administrative Directive Number 558, dated September 20, 2022, regarding the Hospital Access System.

Please send your comments to:

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

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

Petitioner:

Cory Hoch  
P.O. Box 5003  
Coalinga, CA 93210-5003

**Agency Contact:**

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

**Please note the following timelines:**

Publication of Petition in Notice Register: 4/19/2024.  
 Deadline for Public Comments: 5/20/2024.  
 Deadline for Agency Response: 6/3/2024.  
 Deadline for Petitioner Rebuttal: 15 days after the agency provides a response to the petitioner.  
 Deadline for OAL Determination: 8/19/2024.

**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 Public Health  
 File # 2024–0327–02

**PNS Sex Chromosome Aneuploides Screening**

This request for emergency filing and printing by the Department of Public Health amends regulations pertaining to the Prenatal Screening Program (PNS) including definitions, laboratories and analytical methods, clinician requirements, program participation fees, and requirements for approval. This action is exempt from review by the Office of Administrative Law pursuant to Health and Safety Code section 124977(d).

Title 17  
 Amend: 6520, 6523, 6527, 6540, 6541  
 Filed 04/03/2024  
 Effective 04/03/2024  
 Agency Contact:  
 Jasmine Fullwood (279) 217–0681

Department of Justice  
 File # 2024–0403–01  
 Carry Concealed Weapons Licenses Readoption

This emergency readoption action by the Department of Justice (“DOJ”) readopts, with amendment, regulations that establish qualifications necessary to become

a Carried Concealed Weapon (“CCW”) DOJ Certified Instructor. This action further readopts, without amendment, regulations that establish the grounds for revoking a CCW DOJ Certified Instructor’s certification; establish the process for the CCW license applicant’s background check so DOJ can determine the applicant’s eligibility to possess, receive, own, or purchase a firearm; and provide the manner for a licensing authority to send certain CCW license records to DOJ. This action is a deemed emergency and exempt from review by the Office of Administrative Law (“OAL”) pursuant to subdivision (d) of Penal Code section 26225.

Title 11  
 Adopt: 4410, 4412  
 Filed 04/10/2024  
 Effective 04/10/2024  
 Agency Contact: Marlon Martinez (213) 269–6437

Department of Corrections and Rehabilitation

File # 2024–0321–01

**Restricted Housing Units**

This action significantly revises existing regulations related to inmate housing. Changes include consolidating the Administrative Segregation, Security Housing, and Psychiatric Services Units (ASU, SHU, and PSU) into the Restricted Housing Unit (RHU), reducing RHU terms by 50%, eliminating consecutive RHU terms, establishing set RHU terms and eliminating subjective mitigating and aggravating factors previously used to calculate terms, eliminating the Step Down Program (SDP), and increasing out-of-cell time for inmates assigned to RHU, and increasing and expanding types and amounts of authorized privileges and personal property. This is a readoption of OAL action number 2023–1004–01EON.

Title 15  
 Adopt: 3335.2, 3335.3, 3335.4, 3337, 3339, 3341, 3343, 3345, 3346  
 Amend: 3000, 3043, 3044, 3044.1, 3045.1, 3091, 3095, 3139, 3164, 3170.1, 3176, 3177, 3190, 3261.5, 3269, 3269.1, 3269.4, 3287, 3312, 3314, 3315, 3317, 3322, 3327, 3329.5, 3332, 3335, 3335.5 (renumbered to 3335.1), 3336, 3337 (renumbered to 3340), 3338 renumbered to 3342), 3340 (renumbered to 3344), 3341.5 (renumbered to 3338), 3342 (renumbered to 3347), 3343 (renumbered to 3348), 3344 (renumbered to 3349), 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3376, 3376.1, 3377.1, 3377.2, 3378.2, 3378.4, 3378.5, 3378.7, 3378.9, 3378.10, 3379

Repeal: 3339, 3341, 3341.1, 3341.2, 3341.3, 3341.4,  
3341.6, 3341.7, 3341.8, 3341.9, 3345, 3378.3  
Filed 04/08/2024  
Effective 04/11/2024  
Agency Contact: Josh Jugum (916) 798-1484

CalSavers Retirement Savings Board  
File # 2024-0325-03  
CalSavers Retirement Savings Program Amendments

In this deemed emergency readopt pursuant to Government Code section 100048, the CalSavers Retirement Savings Board is amending regulations to require an Eligible Employer registering with the CalSavers Retirements Savings Program to provide both their Federal Employer Identification Number and California Employer Payroll Tax Account Number.

Title 10  
Amend: 10002  
Filed 04/03/2024  
Effective 04/10/2024  
Agency Contact:  
Tristan Woolacott (916) 653-1744

Board of Accountancy  
File # 2024-0228-01  
Peer Review Terminology and Outdated Fee Provisions

In this action without regulatory effect, the Board of Accountancy proposes to update peer review terminology and fees to align to recent updates to Business Professions Code sections 5076 and 5134.

Title 16  
Amend: 39, 48.3, 70  
Filed 04/09/2024  
Agency Contact: Diana Godines (279) 226-4599

California Gambling Control Commission  
File # 2024-0227-02  
Remote Caller Bingo

This action repeals remote caller bingo regulations for lack of statutory authority due to Senate Bill 1304 (stats. 2014, Chapter 71) repealing Penal Code section 326.3 as of January 1, 2017.

Title 04  
Repeal: 12500, 12501, 12503, 12504, 12505,  
12508, 12510, 12511, 12514, APPENDIX C  
Filed 04/10/2024  
Agency Contact: Doris Pires (916) 263-1362

Bureau for Private Postsecondary Education  
File # 2024-0220-01  
Substantive Change of Method

In this rulemaking action, the Bureau amends its regulation to incorporate by reference the Significant

Change in Method of Instructional Delivery or Change in Distance Education Learning Management System form (INS rev. 8/23). The content of the form is deleted from the regulation and moved to the form with some added content.

Title 05  
Amend: 71600  
Filed 04/03/2024  
Effective 07/01/2024  
Agency Contact: David Dumble (279) 895-6091

California Department of Tax and Fee Administration  
File # 2024-0221-04  
Lead-Acid Battery Fees Regulations

This action implements the Battery Recycling Act (Assembly Bill (AB) 2153 (Stats. 2016, Chapter 666), amended by AB 142 (Stats. 2019, Chapter 860) by adopting definitions and the procedures and minimum requirements for claiming exemptions from the Manufacturer Battery Fee and California Battery Fee.

Title 18  
Adopt: 3210, 3220, 3230, 3240, Appendix A  
Filed 04/03/2024  
Effective 07/01/2024  
Agency Contact: Kim DeArte (916) 309-5227

California Gambling Control Commission  
File # 2024-0221-02  
Surveillance

This regular rulemaking action amends the Minimum Internal Control Standards (MICS) for card-room business licensees pertaining to surveillance.

Title 04  
Amend: 12396  
Filed 04/04/2024  
Effective 04/04/2025  
Agency Contact:  
Alexander Hunter (916) 263-1301

Department of Corrections and Rehabilitation  
File # 2024-0223-04  
Stacking of Rules Violation Reports

This regular rulemaking action by the California Department of Corrections and Rehabilitation amends sections 3000 and 3312 of Title 15 of the California Code of Regulations regarding the stacking of Rules Violation Reports.

Title 15  
Amend: 3000, 3312  
Filed 04/08/2024  
Effective 07/01/2024  
Agency Contact: Rachel Orr (916) 445-2314



Department of Corrections and Rehabilitation  
File # 2024-0227-01  
Canteen Privilege Levels

This action by the Department of Corrections and Rehabilitation (“CDCR”) amends regulations to increase the maximum monthly inmate canteen draw limit from \$220.00 to \$300.00, and convert fractional language to percentage.

Title 15  
Amend: 3044, 3090  
Filed 04/10/2024  
Effective 07/01/2024  
Agency Contact: Rachel Orr (916) 445-2314

Occupational Safety and Health Standards Board  
File # 2024-0223-02  
CSO 1532.1 and GISO 5155 and 5198

This action amends Construction Safety Orders (CSOs) and General Industry Safety Orders (GISOs) to (1) reduce workplace exposure to airborne lead; (2) reduce workplace exposure to lead through the oral route of exposure; and (3) expand workplace requirements for blood lead testing of employees who work with lead, independent of measured levels of airborne lead. The regulations are designed to maintain employee blood lead levels (BLLs) below 10 µg/dl

Title 08  
Amend: 1532.1, 1532.1 Appendix A, 1532.1 Appendix B, 1532.1 Appendix C, 5155, 5198, 5198 Appendix A, 5198 Appendix B, 5198 Appendix C  
Repeal: 1532.1 Appendix D, 5198 Appendix D  
Filed 04/08/2024  
Effective 01/01/2025  
Agency Contact:  
Autumn Gonzalez (916) 274-5721

Public Employment Relations Board  
File # 2024-0223-08

Special Remedies

In this rulemaking action, the Public Employment Relations Board promulgates rules for resolving special remedies claims before it.

Title 08  
Adopt: 32095, 32610.2, and 32611.8.  
Filed 04/08/2024  
Effective 07/01/2024  
Agency Contact: Jeremy Zeitlin (415) 654-2358

**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).