



California Regulatory Notice Register

REGISTER 2024, NUMBER 18-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

MAY 3, 2024

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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.

CALIFORNIA REGULATORY NOTICE REGISTER is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$338.00 (annual price). To order or make changes to current subscriptions, please call (800) 328-4880. The Register can also be accessed at <https://oal.ca.gov>.

**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 8. OCCUPATIONAL
SAFETY AND HEALTH
STANDARDS BOARD**

**GENERAL INDUSTRY SAFETY ORDERS,
SECTION 5204**

**OCCUPATIONAL EXPOSURES TO
RESPIRABLE CRYSTALLINE SILICA**

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **June 20, 2024** in the **Claude Fellows Conference Room** of the **SCIF Vacaville Learning Center, 1010 Vaquero Circle, Vacaville, California**, as well as via the following:

- Video-conference at www.webex.com (meeting ID 146 963 6425)
- Teleconference at (844) 992–4726 (Access code Access code 146 963 6425)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board’s office. The written comment period commences on **May 3, 2024** and closes at 5:00 p.m. on **June 20, 2024**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to

submit written comments. Written comments are to be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By email sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code (LC) section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, LC section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards. The proposed regulations implement, interpret, and make specific Labor Code sections 142.3 which permits the Board to prescribe suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and to provide for monitoring or measuring employee exposure for the protection of employees and LC section 144.6 which requires the Board to adopt regulations dealing with toxic materials or harmful physical agents that most adequately assure, to the extent feasible, that no employee will suffer material impairment of health or functional capacity even if the employee has regular exposure to the hazard for the period of their working life.

Section 144.6 also requires that the Board base standards on research, demonstrations, experiments and other appropriate information, taking into consideration the latest scientific literature, the reasonableness of the standards, and the experience gained under the health and safety laws.

LC section 9020 requires that the Board “adopt standards for carcinogens at least as restrictive as the federal requirements for use of carcinogens promulgated under Section 6 of the Occupational Safety and Health Act of 1970 (P.L. 91–596),” and that “it is the intent of the Legislature that the state shall exercise strong leadership in preventing employees, employers, and other persons from being exposed to carcinogens.”

LC section 9030 requires that the Board “adopt one or more standards requiring each employer which uses any carcinogen, including asbestos and vinyl chloride, to submit a written report regarding the use or any incident which results in the release of a potentially hazardous amount of a carcinogen into any area where employees may be exposed.”

LC section 9040 requires that “every employer using carcinogens shall provide for medical examinations of affected employees where required by standards adopted pursuant to subdivision (b) of Section 142.3.”

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking adds additional protections to the title 8 silica general industry regulations (section 5204) in response to an outbreak of silicosis in the California artificial stone countertop fabrication industry. There are currently at least 127 known cases of silicosis among workers in this industry, 13 of whom have died of the disease at a young age. Silicosis is a permanent, disabling, incurable, and progressive disease that is often fatal. Nearly all the affected workers are low-income immigrant workers whose primary language is not English.

The rulemaking will improve requirements in section 5204 pertaining to engineering controls, work practices, medical surveillance, medical removal, communications, training, reporting, and respiratory protection, and it will improve the effectiveness of Cal/OSHA's enforcement operations.

Most of the proposed changes to section 5204 originated in response to an April 2023 petition for an emergency temporary standard (ETS), which was submitted by the Western Occupational and Environmental Medicine Association (WOEMA) in response to the growing number of silicosis cases in the artificial stone fabrication industry. In that petition, WOEMA pointed to four problems that called for immediate action: (1) at the time the petition was filed, about 50 workers in the industry had been diagnosed with advanced silicosis, some of whom had died; (2) these workers were exposed to respirable crystalline silica (RCS) while working with artificial stone; (3) artificial stone contains up to 95% silica; and (4) section 5204 is not well-suited to protecting workers in this industry.

The Petitioner recommended that the ETS require (1) greater control over regulated areas where fabrication work is conducted; (2) prohibition of dry fabrication processes; (3) use of supplied air or powered air purifying respirators (PAPRs); (4) annual reporting to Cal/OSHA; and (5) classification of all citations as serious.

In response to the WOEMA petition, Cal/OSHA drafted an ETS that recommended changes to strengthen section 5204 when employees cut, grind, polish or otherwise handle artificial stone, as well as natural stone that contains more than 10% silica. The Board approved those changes unanimously in December 2023, and the ETS went into effect on December 29, 2023.

When the Board approved the ETS in December 2023, Occupational Health Branch (OHB) reported that the total number of known silicosis cases in the artificial stone industry had increased 92% in a period of five months, from 52 workers in July to 100 cases by December, including ten fatalities. OHB reported that

one worker with severe silicosis was 27 years of age, was on continual oxygen, and had worked for a period of only 10 years in the industry.

In April 2024, OHB reported to Cal/OSHA that the number of known silicosis cases among workers in this industry had increased to 127, a 27% increase over a period of four months. OHB also reported that three additional deaths had occurred from silicosis, for a total of 13, and that 16 workers had received lung transplants.

The ETS has provided Cal/OSHA with new tools to protect workers in the artificial stone fabrication industry. Since December 29, 2023, Cal/OSHA has conducted 29 inspections of artificial stone fabrication shops and issued 13 Orders Prohibiting Use (OPUs) under subsection 5204 (g), closing shops until employers are able to demonstrate that they have effectively mitigated RCS exposures. Where it previously took Cal/OSHA several months to open an inspection and issue citations before an employer would be required to reduce RCS exposures, under the ETS Cal/OSHA has been able to move quickly and efficiently to require worker protections. These measures are more comprehensive and more effective than those previously required under section 5204.

In this rulemaking, the Board proposes to continue the changes to section 5204 that were introduced in the ETS, while also updating the medical surveillance subsection, adding a new medical removal subsection, and amending other subsections to improve their effectiveness in protecting workers from exposure to RCS. The Board expects that, over time, these improvements will steadily reduce the number of silicosis cases and deaths among workers in the artificial stone fabrication industry.

BACKGROUND

Artificial stone is a relatively new product in countertop manufacturing that has largely taken over the countertop marketplace from natural stone, such as granite and marble. In 2021, it surpassed all other materials to become the predominant countertop product in the U.S. for residential and commercial applications, with a market size of \$17.7 billion. U.S. demand for artificial stone countertops is expected to continue growing at 9.6% annually through 2026, solidifying the material's position as the most popular type of countertop material used in the U.S.

Artificial stone technology consists of liquefying, pressurizing, and binding together crushed or pulverized stone with resins, epoxies, or other adhesives. The result is an agglomerate and uniform stone material that can be easily mass-produced in any size, desired color, and pattern.

Artificial stone typically contains 90% or more crystalline silica, a highly hazardous substance when inhaled as a dust. Artificial stone therefore represents

a much greater hazard than natural granite, which normally contains less than 45% crystalline silica, and marble, which contains less than 10% silica. When cut or polished, artificial stone generates a high concentration of RCS particles, as well as hazardous chemical emissions from the adhesive materials.

Artificial stone presents a danger to workers during manufacturing, fabrication (polishing, cutting to rough size, beveling, drilling holes, etc.), and installation (final cutting and drilling to fit on-site conditions). These processes result in large quantities of RCS particles being produced and inhaled by workers.

When RCS particles are inhaled, they become trapped in the lung tissue, leading to inflammation and scarring, which reduces the lungs' ability to transfer oxygen into the bloodstream. The resulting silicosis is a progressive, debilitating, incurable, and often fatal disease. The damage continues even after exposure to RCS ends.

Inhalation of respirable crystalline silica also can cause lung cancer, chronic obstructive pulmonary disease (COPD), kidney disease and a variety of autoimmune diseases.

Title 8 silica regulations in construction (1532.3) and general industry (5204) were established in 2016 and are identical in content to the corresponding federal OSHA regulations. They were established prior to the current silicosis epidemic in the artificial stone countertop industry. The construction regulation contains proactive and prescriptive engineering and respiratory protection controls, whereas the general industry regulation has no such protections. Therefore, the proposal is limited to updating the general industry regulations.

Limitations of Section 5204

Section 5204, as it existed prior to the silica ETS, is a performance standard that is not well-calibrated to the small shops and hazardous conditions that characterize the artificial stone fabrication industry. This is evidenced by (1) Cal/OSHA's 2019 Special Emphasis Program, which found 72% of employers to be out of compliance with section 5204; (2) the findings of Fazio et al (2023)¹, which reports that only 45% of artificial stone fabrication workers with silicosis reported using wet methods to control RCS exposures; and (3) the April 2023 report from the California Department of Public Health (CDPH) Occupational Health Branch showing that the number of known silicosis cases among workers in this industry had increased from 100 in December 2023 to 127 in April 2024, a 27% increase over a period of four months, and that

three additional silicosis deaths had occurred, for a total of 13, along with 16 workers who had received lung transplants.

Importantly, the pre-ETS Section 5204 contains three "loopholes" that allow employers to avoid implementing measures to protect workers from exposure to RCS:

- 1) Feasibility: 5204 allows employers to avoid implementing key protections in the standard by claiming that those protections are infeasible, shifting the burden of proof to Cal/OSHA [see subsection (f)(1), and renumbered subsections (h)(1)(A), (h)(1)(B), (h)(1)(C), (i)(1), and (i)(2)(B)].
- 2) "Objective data": 5204 allows employers to exempt themselves from the standard in its entirety by claiming that RCS exposures are likely below the action level, without actually having to conduct exposure monitoring [see (a)(2)].
- 3) Monitoring: 5204 allows employers to conduct air monitoring on a single day and exempt themselves from the standard for that task, from that point onward, if the results show exposures are below the action level [see (d)(3)(B)].

The pre-ETS section 5204 makes enforcement difficult by requiring Cal/OSHA to prove that employee exposures to RCS are over the action level or permissible exposure limit for RCS before issuing citations and enforcing protective measures, including respiratory protection, engineering controls, improved work practices, training, and others.

The proposed changes to section 5204 will close these three loopholes for tasks performed on artificial stone (with >0.1% silica) or natural stone (with >10% silica), known as "high-exposure trigger tasks" in the proposal. The proposed changes will make RCS protections mandatory, regardless of "objective data" obtained by the employer, or exposure levels measured by the employer. This will allow Cal/OSHA to enforce immediately upon observing hazardous conditions rather than waiting to conduct time-consuming and resource-intensive air monitoring and laboratory analyses. This is similar to the existing asbestos and lead regulations.

The proposed changes to section 5204 take this approach because exposure monitoring can produce widely varying results on any given day; it is therefore not considered to be a reliable indicator of employee exposure, particularly when the consequences of exposure are so high, potentially leading to death. In addition, employers sometimes alter work processes or reduce production levels during exposure monitoring, such that the monitoring underestimates typical workplace exposures. This results in hazardous working conditions continuing and limits Cal/OSHA's ability to ensure that employers implement the protections

¹ Fazio JC, et al. Silicosis Among Immigrant Engineered Stone (Quartz) Countertop Fabrication Workers in California. *JAMA Internal Medicine*. Published online July 24, 2023. <https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2807615>.

required under section 5204. Exposure monitoring is also resource-intensive for Cal/OSHA; it adds dozens of hours of work per investigation and delays implementation of necessary protective measures.

The proposed changes to section 5204 will retain a new subsection (g), Imminent Hazards, which was introduced in the silica ETS and allows Cal/OSHA to immediately issue an “Order Prohibiting Use” (OPU) when certain hazardous conditions are observed, without having to conduct air monitoring and lab analyses. An OPU requires the employer to shut down an operation or the shop itself, depending on the extent of the hazard, pending abatement. This facilitates immediate protections for workers from exposures to RCS.

Covered Employers

The proposed amendments to the silica regulations will primarily apply to countertop manufacturing and fabrication. Cal/OSHA estimates there are approximately 841 countertop fabrication shops in California that employ 4,955 employees. About 816 (97%) of these shops are small businesses that employ fewer than 10 employees. About 25 shops are large employers. The revisions apply to high-exposure trigger tasks performed with artificial stone that contains >0.1% silica and to natural stone that contains >10% silica. Natural stone is included to ensure that workers who handle it will benefit from the safety improvements required by the proposed revisions to section 5204, which — under the existing standard — cannot otherwise be effectively enforced by Cal/OSHA.

A synopsis of the proposed changes is as follows:

Section 5204. OCCUPATIONAL EXPOSURES TO RESPIRABLE CRYSTALLINE SILICA

Requirements of the Pre-ETS Subsection 5204

For general industry, covered employers are required to:

- Ensure that no employee is exposed to RCS above the permissible exposure limit (PEL, 50 µg/m³ as an 8-hour time weighted average) (existing subsection c);
- Characterize employee exposures to RCS to determine if they may be at or above the action level (25 µg/m³ as an 8-hour time weighted average) by conducting air monitoring or by deferring to “objective data,” defined as “calculations based on the composition of a substance,” or “industry-wide surveys” (existing subsection d);
- Limit workers’ access to areas where they could be exposed to RCS above the PEL (existing subsection e);
- Use dust controls to protect workers from silica exposures above the PEL, if feasible (existing subsection f);
- Establish and implement a written exposure control plan that identifies tasks that cause exposure

and methods used to protect workers (existing subsection f);

- Provide respirators to workers when dust controls are not sufficient to limit exposures to or below the PEL (existing subsection f);
- Use housekeeping methods that do not create airborne dust, if feasible (existing subsection h);
- Offer medical exams including chest X-rays and lung function tests, within 30 days of initial hire and every three years for workers exposed at or above the action level for 30 or more days per year; require reporting of certain results to the employee and employer, followed by a specialist evaluation, as needed (existing subsection i);
- Train workers on work operations that result in RCS exposure; on RCS control measures in the workplace; and on the health hazards of RCS. Post signs warning of lung damage at entrances to “regulated areas,” as defined (existing subsection j); and
- Keep records of exposure measurements, objective data, and medical exams (existing subsection k).

Proposed Changes to the Existing Regulations

Subsection (a) Scope and application.

- “High-exposure trigger tasks” are covered by the protective measures required in the section, regardless of employee exposures, exposure assessments, or objective data. These tasks are those in which employees cut, grind or polish artificial stone (>0.1% silica) or natural stone (>10% silica).

Subsection (b) Definitions.

- New definitions are proposed for artificial stone, confirmed silicosis, high-exposure trigger task, qualified person, suspected silicosis and wet methods.

Subsection (d) Exposure assessment.

- Employers must monitor high-exposure triggers tasks (HETTs) for silica dust at least every 12 months to assess the effectiveness of dust controls and notify employees of the results.

Subsection (e): Regulated areas.

- Employees must perform all HETTs in a “regulated area,” as defined.

Subsection (f): Methods of compliance.

- Employers must provide employees with tools that flow enough water over the working edge to suppress dust.
- Employers must protect employees from dust during clean-up work.
- Compressed air must not be used to remove dust from clothing, tools, or surfaces; dust must not be disturbed during clean-up; rotation cannot be used to reduce employee exposures to RCS; em-

ployee must not walk or otherwise move through dust.

- Employers must expand the written exposure control plan to include air monitoring results; procedures for proper donning and doffing of personal protective equipment, including work clothing and respiratory protection; confirmation of reporting to Cal/OSHA under section 5203; and training procedures.
- Cal/OSHA may require the employer to take additional actions to protect employees through the issuance of an Order to Take Special Action in accordance with Section 332.3.

Subsection (g) Imminent hazards.

- Allows Cal/OSHA to quickly shut-down an operation or the shop itself if certain violations are observed by a Cal/OSHA compliance officer.

Subsection (h) Respiratory protection.

- Employers must provide a full-face, tight-fitting powered air-purifying respirator (PAPR) or respirator with equal or greater protection to each employee who performs a HETT, with an Assigned Protection Factor (APF) of 1000.
- Employees who use a PAPR must be fit-tested and trained to use it.
- The PAPR must be stored in a clean location.
- Under an exception, a less-protective respirator with APF of 25 or greater is allowed if the employer demonstrates that RCS exposure levels are below the action level based on sampling conducted every six months by a qualified person, as defined.
- A supplied air respirator is required for employees with confirmed or suspected silicosis, or as recommended by the physician or other licensed health care professional (PLHCP) or specialist.

Subsection (i) Housekeeping.

- The feasibility exemptions in the existing regulation are removed for HETTs.
- Dry sweeping and brushing, and the use of compressed air to clean clothing and surfaces, are prohibited.

Subsection (j) Medical surveillance.

- The employer must provide initial and annual medical exams for employees who engage in HETTs, and they must be offered at no cost to the employee and at a reasonable time and place.
- Under an exception, annual exams can be moved to one exam every three years if the employer demonstrates that RCS exposure levels are below the action level based on sampling conducted every six months by a qualified person, as defined.
- The required initial and periodic medical exams must include a more extensive medical and

work history, as well as a computed tomography (CT) scan for employees with suspected silicosis or certain exposure conditions, or based on the PLHCP's determination.

- The employer is required to provide certain information to the PLHCP and must ensure that the PLHCP communicates the exam results to the employee. The PLHCP communicates their opinion to the employer, along with any recommended changes to the employee's working conditions, and the employer must convey this information immediately to the employee.
- PLHCPs are required to report silicosis and lung cancer cases to Cal/OSHA and CDPH, in addition to meeting reporting obligations under CCR title 17.

Subsection (k) Medical removal (A new subsection not in the silica ETS)

- If recommended by the PLHCP in order to reduce an employee's exposure to RCS, the employer is required to modify an employee's job or transfer the employee to comparable work.
- Up to six months, the employer is required to maintain the employee's earnings, seniority and other benefits, minus any payments the employee receives from workers' compensation or income received from another employer.
- The employer is required to pay for an independent medical review if requested by the employee. The results of the review are binding on all the parties.

Subsection (l). Communication of respirable crystalline silica hazards to employees.

- All training and communications must be in a language and at a literacy level appropriate for the employees.
- The signage for "regulated areas" must include the phrase, "Causes permanent lung damage that may lead to death" in English and Spanish.
- Employers must train employees in the symptoms of silicosis; how to employ dust controls, work practices and respiratory protection to prevent dust exposures; and how silica dust can worsen the effects of smoking and tuberculosis infection.
- Employers must encourage employees to report any symptoms related to exposure to RCS without fear of reprisal, and employers are prohibited from taking or threatening to take any adverse action against employees who report symptoms or who suffer from a silica-related illness.

Subsection (m). Reporting of silicosis.

- Employers must report confirmed silicosis and lung cancer cases within 24 hours to the Califor-

nia Department of Public Health (CDPH) and to Cal/OSHA.

- Within 24 hours of identifying a confirmed silicosis or lung cancer case, healthcare providers must report the case to Cal/OSHA, while also meeting their silicosis reporting obligations under CCR title 17

Subsection (n). Recordkeeping.

- The proposed revision was renumbered but no other changes were made to this subsection.

Deletion of former subsection (l) Dates.

- Former subsection (l) has been deleted as all the implementation dates listed have passed and the subsection has no effect.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a comprehensive system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the Federal Occupational Safety and Health Administration (OSHA) and the Labor Code that state regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

This proposal is at least as effective as the equivalent federal standards in Title 29 Code of Federal Regulations, section 1910.1053 published by OSHA.

Anticipated Benefits

In general, the proposed changes to section 5204 will continue the protections introduced by the silica ETS, which will steadily reduce worker exposures to RCS; make compliance clearer and more straightforward for employers; and improve the efficiency of Cal/OSHA's compliance program. By protecting employees from exposure to RCS, these changes will reduce case numbers and deaths due to RCS-attributable diseases, including lung cancer, kidney disease, COPD, and other nonmalignant respiratory illnesses, including silicosis, which is a permanently disabling and often fatal pulmonary disease. The proposed regulation will thereby prevent the direct and indirect impacts associated with these fatal and non-fatal conditions, including the cost of medical care and rehabilitation, as well as lost wages, benefits, and lifetime productivity. These costs are currently borne by employers, insurers, public programs, workers, and their families.

Over 10 years, the expected costs of the proposed regulation to businesses are \$106.5 million. Annual benefits are expected to increase slowly from \$0.7 million in year one to \$95.7 million by year ten, reaching

a total of \$492 million over the 10-year period. These anticipated benefits are attributable to the effect the proposed revisions to section 5204 will have in preventing diseases and fatalities that would otherwise occur. This estimated benefit figure does not include indirect costs of pain and suffering, lost wages and benefits, and lost lifetime productivity that fall to employees and their families.

Finally, protecting workers from disabling and deadly diseases will also place the industry itself on a more secure footing. The industry will be subject to increasingly stringent regulatory oversight and other actions if it continues to cause disabling diseases and death among employees.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies and School Districts:

None.

Cost or Savings to State Agencies:

The revisions to section 5204 will relieve Cal/OSHA of costs associated with air sampling for RCS and laboratory analysis of those samples for workers who perform HETTs.

Cost to Any Local Government or School District Which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630:

None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies:

None.

Cost or Savings in Federal Funding to the State:

None.

Cost Impacts on a Representative Private Person or Business:

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

The Board is aware that there are cost impacts that a representative business may incur in complying with the proposed action. For the 841 total fabrication shops, the Board estimated the total costs of the proposed regulation by deriving and aggregating total upfront costs, recurring costs, labor costs, and medical costs, which include requirements pertaining to medical surveillance and medical removal. In the first year of the proposed revisions to section 5204, the total cost for all small and large shops combined is estimated at \$23.4 million, of which \$19.2 million is distributed among 816 small shops and \$4.2 is distributed among 25 large shops. The cumulative 10-year cost for all small and large shops combined is \$106.5 million, of which \$91.7 million is distributed among the 816 small shops and \$14.8 million is distributed among the 25

large shops. The total average annual cost over this 10–year period is \$9.2 million for the 816 small shops and \$1.5 million for the 25 large shops. 97 percent of businesses affected are small businesses. Compliance costs include costs for engineering controls, house-keeping, respiratory protection, medical surveillance, medical removal, and training.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals, Including the Ability of California Businesses to Compete:

The Board has made an initial determination that this proposal will not result in a significant, state-wide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states.

This proposal is expected to reduce serious illnesses, permanent disability, and deaths, by reducing employee exposures to respirable crystalline silica.

Because the proposed changes to section 5204 affect only 841 businesses, it will have a negligible impact on California businesses and their ability to compete. Some employees will be affected if their employer is unable or unwilling to comply with the new requirements, because those employers would be expected to exit the market. Other employers who are able and willing to comply with the new requirements, thereby creating safer working conditions, will likely expand their business over time as unsafe operators exit the market. Because the stone fabrication industry is primarily localized to specific regions, fabrication shops that successfully implement the revisions to section 5204 are unlikely to experience competition from out-of-state operators that are not subject to the requirements — and associated costs — of the increased protections that will be required under the proposed changes to section 5204.

Significant Effect on Housing Costs:

None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments may affect small businesses.

California Government Code section 11346.3 defines small businesses as businesses that are independently owned and operated, not dominant in their field of operation and have fewer than 100 employees.

The total cost per small shop of the proposed revisions depends on whether the shop already uses wet methods. Based on the analysis conducted for the silica ETS, 367 (45%) of 816 small shops currently use wet methods, so the cost of implementing the proposed revisions in the first year for each of these shops is estimated at \$13,300. The remaining 449 (55%) small shops that do not already use wet methods will

need to invest in these technologies in the first year of the regulation. The cost of implementing the proposed revisions in the first year for each of these shops is therefore 2.4 times greater, estimated at \$31,900. Over ten years, the average annual cost for each small shop that already uses wet methods is \$4,400, whereas the average annual cost for each shop that currently does not use wet methods is \$16,800.

For the 841 total fabrication shops affected by the proposed revision to section 5204, the total costs were estimated by deriving upfront costs, recurring costs, labor costs, and medical costs. In the first year of the proposed revisions to section 5204, the total cost for all small and large shops combined is estimated at \$23.4 million, of which \$19.2 million is distributed among 816 small shops and \$4.2 is distributed among 25 large shops. The cumulative 10–year cost for all small and large shops combined is \$106.5 million, of which \$91.7 million is distributed among the 816 small shops and \$14.8 million is distributed among the 25 large shops. The total average annual cost over this 10–year period is \$9.2 million for the 816 small shops and \$1.5 million for the 25 large shops.

Savings in diseases and deaths among employees are expected to accrue over this 10–year period, as noted above.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Given the small size of the stone fabrication industry relative to the California economy, the proposed changes to section 5204 will have a negligible effect on the creation or elimination of jobs. They will likely eliminate some businesses, but may also expand existing businesses in this sector; they are unlikely to cause the creation of new businesses. The new regulations will provide immediate safety benefits to workers in this industry by requiring effective and enforceable protections from exposures to RCS. Over subsequent years, these protections will result in fewer disability cases and deaths from silicosis and other diseases attributable to RCS exposure among workers in this industry. This will benefit these workers and their families, as well as others who bear the direct and indirect costs of early disease, disability and death, including insurers, employers, hospital systems, and public safety net programs. Aside from the families of stone fabrication workers, the new regulations will not have an effect on the broader health and welfare of California residents. The new regulation will not affect the state’s environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulations 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 or would be as effective and less burdensome to affected private persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

Based on in-person and remote meetings with representatives of the stone fabrication industry and artificial stone manufacturing industry, the Board considered two alternatives to the current proposal: (1) limiting the proposal strictly to requiring wet methods when fabricating artificial stone, and authorizing the Division to shut down fabrication shops that do not use wet methods; or (2) prohibit the cutting, grinding and polishing of artificial stone.

The Board rejected alternative (1) because it would not provide sufficient protections for workers from exposure to RCS. Studies from National Institute for Occupational Safety (NIOSH) and the Georgia Institute of Technology have shown that even with fully operational wet methods, exposures are often over the PEL. Additional protections are therefore needed. The proposed revision therefore requires improved protections in housekeeping, respiratory protection, medical surveillance, medical removal, training, signage and reporting, all of which play a role in reducing RCS exposures.

The Board rejected alternative (2) because it could incentivize the growth of illegal fabrication shops that are hidden from regulators. These shops would continue to use unsafe methods and endanger their employees. This approach could also incentivize fabrication shops to open in adjacent states where protective methods are not in place.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Autumn Gonzalez (Acting Executive Officer) or the designated back-up person, Amalia Neidhardt (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Autumn Gonzalez or Amalia Neidhardt at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as modified. Please request copies of any modified regulations by contacting Autumn Gonzalez or Amalia Neidhardt at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Autumn Gonzalez or Amalia Neidhardt at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its website. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.

**TITLE 14. DEPARTMENT OF
FISH AND WILDLIFE**

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

**ADD SECTION 723, SUSPENSION
OR REVOCATION OF LAKE AND
STREAMBED ALTERATION
AGREEMENTS TO TITLE 14 OF THE
CALIFORNIA CODE REGULATIONS**

In accordance with Fish and Game Code section 1612, the Department of Fish and Wildlife (“Department”) proposes to add Section 723, Suspension or Revocation of Lake and Streambed Alteration Agreements to Title 14 of the California Code of Regulations. Proposed Section 723 establishes a process by which the Department may suspend or revoke a Lake or Streambed Alteration Agreement if the Department determines the permittee is not in compliance with the terms of their agreement or fails to submit a timely status report when a report is required.

The proposed regulation described below may be adopted after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held virtually via webinar/teleconference from 11:00 a.m. to 12:00 p.m. on Tuesday, June 18, 2024. Instructions for participation in the webinar/teleconference hearing will be posted at www.wildlife.ca.gov/Notices/Regulations/LSA-Revocation-Suspension at least seven days in advance of the meeting.

WRITTEN COMMENT PERIOD

Written comments may be submitted at any time before or on June 18, 2024, by mail or email to the contact as follows:

California Department of Fish and Wildlife
Regulations Unit
Attention: Mike Randall, Analyst
P.O. Box 944209
Sacramento, CA 94244–2090
Email: Regulations@wildlife.ca.gov

AUTHORITY AND REFERENCE

Authority: Sections 702, 1605, and 1612, Fish and Game Code.

Reference: Sections 1601, 1602, 1605, and 1612, Fish and Game Code.

The Department proposes to add section 723, Suspension or Revocation of Lake or Streambed Alteration Agreements, to title 14 of the California Code of Regulations. Section 723 implements Fish and Game Code Section 1612, which requires the Department to adopt regulations establishing a procedure for suspending or revoking a Lake and Streambed Alteration agreement (“agreement”) when the Department determines the permittee is not in compliance with the agreement or fails to provide timely status reports where the permittee has a long-term agreement. The procedure must require the Department to provide written notice to the permittee explaining the basis for suspension or revocation and an opportunity to correct any deficiencies.

BACKGROUND

Fish and Game Code Section 1602 requires an entity, as defined in Section 1601, to notify the Department before the entity substantially alters the flow, bed, channel, or bank of any river, stream, or lake. If the Department determines the project described in the notification could substantially adversely affect an existing fish or wildlife resource, the project will require agreement from the Department that includes resource protection measures, among other terms.

The term of an agreement may not exceed five years unless the entity requests a longer term, and the Department agrees. (Fish & Game Code, § 1605, subdivisions (a)(1), (g).) To obtain a long-term agreement, the entity must agree to provide a status report to the Department every four years. (Fish & Game Code, § 1605, subdivision (g)(2).)

REGULATORY PROPOSAL

To meet the requirements under Fish and Game Code Section 1612, the Department proposes adding Section 723 to title 14 of the California Code of Regulations, which will do the following:

1. Define the following terms used in Section 1612 and the proposed regulation: 1) “deficiency”; 2) “Lake or Streambed Alteration agreement” or “agreement”; 3) “permittee”; and 4) “status report.”
2. Allow the Department to suspend or revoke an agreement when the Department determines the entity is not in compliance with the terms of the agreement or fails to provide timely status reports where the entity has a long-term agreement.

3. Establish the following procedure the Department must follow before suspending or revoking an agreement in accordance with Section 1612:

Step 1: The Department determines the entity has failed to comply with the terms of their agreement or to file a timely status report. The Department sends the entity a notice of non-compliance that describes the deficiency, as that term is defined in the proposed regulation, directs the entity to correct each deficiency by the date in the notice, and explains that the Department will suspend the agreement unless the entity corrects each deficiency by the date in the notice.

Step 2: If the entity demonstrates each deficiency has been corrected by the date in the notice of non-compliance, the Department must notify the entity the agreement remains in effect. If the entity does not demonstrate each deficiency has been corrected by the date in the notice, the Department must send the entity a notice of suspension that explains: 1) the agreement is suspended; and 2) if each deficiency has not been corrected by the date in the suspension notice, the agreement will be revoked.

Step 3: If the entity demonstrates each deficiency has been corrected by the date in the notice of suspension, the Department must notify the entity the suspension has been released and the agreement is again in effect. If the entity does not demonstrate each deficiency has been corrected by the date in the notice, the Department must send the entity a notice of revocation that explains the agreement has been revoked.

4. Provide that the effective date of any suspension or revocation shall be 10 days from the date of the notice of suspension or notice of revocation under steps 3 and 4, above.
5. Allow the Department to set the date by which an entity must correct any deficiency identified in a notice of non-compliance and notice of suspension (“end date”) on a case-by-case basis based on certain factors identified in the proposed regulation.
6. Allow the Department to extend any end date upon written request by the entity based on certain factors identified in the proposed regulation.
7. Specify that the method by which any notices or other writings the Department delivers to an entity must be by regular mail and email.
8. Clarify that an entity that is not in compliance with the terms of an agreement or fails to provide

timely status reports is subject to all fines and penalties imposed by the Fish and Game Code or any other law.

**BENEFITS OF THE
PROPOSED REGULATIONS**

The purpose of an agreement is to protect fish and wildlife resources that may be substantially adversely affected by the project or activities the agreement authorizes. The purpose of a status report for a long-term agreement is for the Department to evaluate the efficacy of these measures. By allowing the Department to suspend or revoke an agreement administratively when an entity is not in compliance with the terms of an agreement, which includes resource protection measures, or fails to provide timely status reports, the proposed regulation benefits the state’s fish and wildlife resources. Without the proposed regulation, the Department will need to continue relying on the Attorney General or a district or city attorney to bring the entity into compliance. This can take much longer than an administrative action by the Department under Fish and Game Code Section 1612 and because of the delay, result in greater harm to resources.

**CONSISTENCY AND COMPATIBILITY
WITH EXISTING REGULATIONS**

The Legislature, through Fish and Game Code Section 1612, has directed the Department to adopt regulations establishing a procedure for suspending or revoking an agreement. The Department has reviewed its existing regulations in title 14 of the California Code of Regulations and finds that the proposed regulation is neither inconsistent nor incompatible with the existing regulations in title 14. The Department has searched the regulations in all other titles of the California Code of Regulations and has found no other regulations that set forth the requirements in the Department’s proposed regulation.

**DOCUMENTS INCORPORATED
BY REFERENCE**

None.

DOCUMENTS RELIED UPON

None.

DISCLOSURES REGARDING THE
PROPOSED ACTION

Impact of the Regulatory Action/Results of the Economic Impact Assessment

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

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

None. The Department concludes that the proposed regulation will not have any adverse economic impact on any business. The proposed regulation imposes no fees or costs, does not require any action by any business, and would only apply to a business if it has an agreement and the business, as a permittee, is not in compliance with it.

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

None. The Department concludes that the proposed regulation will not create or eliminate jobs, create new businesses, eliminate existing businesses, or expand businesses in the state. As explained above, the purpose of the proposed regulation is to allow the Department to suspend or revoke an agreement if after being given an opportunity to come into compliance with their agreement, the permittee fails to do so. The proposed regulation will not benefit the health and welfare of California residents or worker safety. However, the proposed regulation could benefit the state’s environment by ensuring a permittee is following their agreement, the purpose of which is to protect fish and wildlife resources the project covered in the agreement could adversely affect.

(c) Cost Impacts on Representative Person or Business:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation. The proposed regulation does not impose any fees or costs.

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

None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that are Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

None. The Department concludes that the proposed regulation will not have any effect on small business. As explained above, the purpose of the proposed regulation is to allow the Department to suspend or revoke an agreement if after being given an opportunity to come into compliance with their agreement, the permittee fails to do so.

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The Department concludes that the proposed regulation will not create additional job opportunities; result in the elimination of jobs or existing businesses, create new businesses, eliminate existing businesses, or expand businesses in the state.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

None. The cumulative effects of the changes statewide are expected to be neutral regarding the creation or elimination of jobs within the state.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

None. The cumulative effects of the changes statewide are expected to be neutral regarding the creation or elimination of businesses within the state.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

None. The cumulative effects of the changes statewide are expected to be neutral regarding the expansion of businesses within the state.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

None. The cumulative effects of the changes statewide are expected to be neutral regarding the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety:

The cumulative effects of the changes statewide are expected to be neutral regarding worker safety.

(f) Benefits of the Regulation to the State’s Environment:

The purpose of the agreement is to protect fish and wildlife resources that may be substantially adversely

affected by the project or activities the agreement authorizes. The purpose of a status report for a long-term agreement is for the Department to evaluate the efficacy of these measures. By allowing the Department to suspend or revoke an agreement when a permittee is not in compliance with the terms of an agreement, which includes resource protection measures, or fails to provide timely status reports, the proposed regulation benefits the state's fish and wildlife resources. If the Department were unable to suspend or revoke an agreement in these circumstances, it would need to rely on the Attorney General or a district or city attorney to bring the permittee into compliance. This would take much longer and could result in greater harm to resources because of the delay, assuming the Attorney General or a district or city attorney even takes the case.

The cumulative effects of the changes statewide are expected to be minimal regarding the state's environment. This largely depends on the number of permittees out of compliance with their agreements and how many of these permittees the Department brings into compliance with the proposed regulation.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternatives to the proposed regulation it considered or that have otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the regulation 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 regulations during the written comment period.

AVAILABILITY OF RULEMAKING DOCUMENTS AND CONTACT PERSONS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Department website at <https://wildlife.ca.gov/notices/regulations/>.

The proposed text (the "express terms") of the regulations, as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review at 715 P Street, Sacramento, CA 95814 (17th floor). The rulemaking file will be available electronically upon request by contacting the

Department at Regulations@wildlife.ca.gov. Inquiries concerning the regulatory process or requests for documents should be directed to:

California Department of Fish and Wildlife
Mike Randall, Regulations Unit
P.O. Box 944209
Sacramento, CA 94244-2090
Telephone: (916) 902-9109
Email: regulations@wildlife.ca.gov

Inquiries concerning the subject matter or substance of the proposed action should be directed to:

Nicole Gephart, Senior Environmental Scientist
California Department of Fish and Wildlife
P.O. Box 944209
Sacramento CA 94244-2090
Telephone: (916) 594-6143
Email: regulations@wildlife.ca.gov

As of the date this notice is published, the rulemaking file consists of:

1. STD Form 400: Notice of Proposed Action
2. Initial Statement of Reasons
3. Proposed Text of the Regulation: Addition of Section 723, Title 14, CCR
4. Economic and Fiscal Impact Assessment (Form STD 399) and addendum

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

The rulemaking file is available online at: <https://www.wildlife.ca.gov/Notices/Regulations/>

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all the timely and relevant comments received, the Department may adopt the proposed regulation 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 regulation as revised. Please send requests for copies of any modified regulation to the Regulations Unit at the address above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by checking the website at the link provided above, or the Regulations Unit at the address above.

TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY

NOTICE IS HEREBY GIVEN that the Emergency Medical Services Authority (EMSA) is proposing to take the action described in the Informative Digest. Written comments, including those sent by mail, facsimile, or email to addresses listed under Ryan McElhinney in this Notice, must be received by EMSA at its office by midnight on June 18, 2024. The Board has not scheduled a public hearing on this proposed action. However, the EMSA 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. EMSA may thereafter adopt the proposal substantially as described below or may modify the proposal 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: The Health and Safety Code Section 1797.107 authorizes EMSA to adopt the proposed regulations, which would implement, interpret, clarify, or make specific Section 1797.112 of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (Health and Safety Code Division 2.5) created EMSA and outlined its authorities, duties, and responsibilities. Included in the act are the authority and procedures for promulgating regulation (Health and Safety Code section 1797.107), Health and Safety Code section 1797.112 creates the EMS personnel fund (Fund) along with requirement of the fund, which is maintained by EMSA.

EMSA is part of a two-tier system overseeing Emergency Medical Services. EMSA serves as the agency that sets statewide EMS system operation, data col-

lection, communications, manpower, and training standards and a Local Emergency Medical Service Agency (LEMSA) provides EMS system oversight at the local level. Today, there are 34 LEMSAs in California. Most LEMSAs serve a single county, but other LEMSAs serve multiple counties.

Over the course of 30 years, Title 22 of the California has been continuously amended to reflect new technologies, policy priorities and budgetary items. The Emergency Medical Services Authority has been diligent in updating regulations that impact how patients, professionals and other participants in the emergency medical system interact with each other.

The EMS Commission and EMSA team members have recognized that there is a need to reorganize the regulations to be more usable by all parties within the EMS system. Various sections, articles, or chapters within the current text of Title 22 are out of place, not connected with each other or may be duplicative. This has resulted in a regulatory framework that is both confusing for stakeholders and problematic for patient care.

Specifically, the regulatory proposal is as follows:

Re-organization of Chapters 1–14 of Division 9 of Title 22.

Anticipated Benefits of the Proposed Regulations:

These regulations will result in a more coherent and logical order of operations for Division 9 code governing prehospital emergency hospital care.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, EMSA 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.

DOCUMENTS INCORPORATED BY REFERENCE

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

Cost or savings to any state agency: EMSA is not aware of any significant cost impacts that a state agency would incur in reasonable compliance with the proposed action.

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

Local mandate: None.

Nondiscretionary costs or savings to local agencies: None.

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

Business Report Requirement: None.

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

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Significant effect on housing costs: None.

Effect on small businesses: The proposed regulations will not affect small businesses. Re-ordering of the operations of Division 9 will not change the current regulations that impact small businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Economic Impact Assessment:

As stated earlier, the reorganization of EMSA's regulations in Division 9 of Title 22 will benefit the health and welfare of California residents, making the regulations more usable by all parties with the EMS system. The regulations are not expected to affect worker safety or the state's environment.

EMSA concludes that it is: (1) unlikely that the proposal will eliminate any jobs or LEMSAs; (2) unlikely the proposal will create any new jobs; (3) unlikely the proposal will create new businesses or any new LEMSAs; (4) unlikely the proposal will eliminate any existing businesses in California or existing LEMSAs; and (5) unlikely the regulations will result in the expansion businesses currently doing business within the state or expansion of LEMSAs currently operating in the state.

CONSIDERATION OF ALTERNATIVES

The EMSA must determine that no reasonable alternative to the regulation or 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 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 statutory policy or other provision of law.

Any interested person may present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the scheduled hearing.

INITIAL STATEMENT OF REASONS, TEXT OF THE PROPOSAL, FINAL STATEMENT OF REASONS, AND RULEMAKING FILE

Copies of the proposed text, any document incorporated by reference, and the initial statement of reasons are available by contacting the person named below.

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.

A copy of the final statement of reasons can be obtained once it has been completed, by making a request to the contact person named below or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text are available on the EMSA website at https://emsa.ca.gov/public_comment/

CONTACT PERSON

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

Name: Ryan McElhinney

EMS Authority

Address: 11120 International Drive, Suite 200

Rancho Cordova, CA 95670

Cellphone: (916) 969-8826

Email: ryan.mcelhinney@emsa.ca.gov

The backup contact person is:

Name: Ashley Williams

EMS Authority

Address: 11120 International Drive, Suite 200

Rancho Cordova, CA 95670

Cell: (916) 591-3266

Email: ashley.williams@emsa.ca.gov

**TITLE 22/MPP. DEPARTMENT OF
SOCIAL SERVICES**

ORD #0423–04

**REPRODUCTIVE HEALTH OF
FOSTER YOUTH AND SOCIAL
WORKER ACTIVITIES**

California Department of Social Services (CDSS) hereby gives notice of the proposed regulatory action described below. Any person interested may present statements or arguments relating to the proposed regulations in writing, email, or by facsimile to the address, email address, or numbers listed below. All comments must be received by June 17, 2024.

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

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on CDSS' public hearing page (<http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information>). Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed below. Following the public notice period, copies of the Final Statement of Reasons will also be available at the following address:

CONTACT

California Department of Social Services
Office of Regulations Development
744 P Street, MS 8–4–192
Sacramento, CA 95814
Telephone: (916) 657–2586, Fax: (916) 654–3286
Email: ord@dss.ca.gov
Contact Person: Tyler Penn (916) 204–0337
Backup: Oliver Chu (916) 657–3588

CDSS has not scheduled a public hearing on this proposed action. However, CDSS will hold a public 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. Any request should be made to the contact information provided above.

CHAPTERS

California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP), Division 31, Child Welfare Services Program

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

These regulations implement state law contained in Assembly Bill (AB) 175, (Chapter 416, Statutes of 2019), Senate Bill (SB) 89 (Chapter 24, Statutes of 2017), SB 528 (Chapter 338, Statutes of 2013), and AB 1127 (Chapter 216, Statutes of 1996), which add or amend Welfare and Institution Code sections 369, 16001.9, 16501.1, and 16521.5. Existing law modifies case plan documentation requirements for a child age 10 or older and a nonminor dependent in foster care; social worker/probation officer contacts with the child; the rights of children in foster care, and the social worker/probation officer responsibilities for service delivery.

Existing law found in Assembly Bill (AB) 175, (Chapter 416, Statutes of 2019) provides that it is the policy of the state that all minors and nonminors in foster care have specified rights, including, among others, the right to receive medical, dental, vision, and mental health services, the right to be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court or child welfare records, the right to review their own case plan and plan for permanent placement if the child is 12 years of age or older and in a permanent placement, and the right to attend Independent Living Program classes and activities if the child meets applicable age requirements.

Existing law in Senate Bill (SB) 89 (Chapter 24, Statutes of 2017) requires a county social worker to create a case plan for foster youth within a specified timeframe after the child is introduced into the foster care system. Existing law requires the case plan to include prescribed components, including, among other things, for youth in foster care 14 years of age and older and nonminor dependents, a document that describes the youth's rights with respect to education, health, visitation, and court participation, the right to be annually provided with copies of his or her credit

reports at no cost, and the right to stay safe and avoid exploitation. It also requires social workers/probation officers to verify the foster child/nonminor dependent’s receipt of comprehensive sexual health education, which is required for all California students pursuant to the California Healthy Youth Act (Assembly Bill 329, Chapter 398, Statutes of 2015).

Adding Section 31.206.223(a), (b), and (c) and 31.206.224(a) and (b) will require the social worker/probation officer to document the following in the case plan for a foster child age 10 or older and nonminor dependent who is in middle school or high school:

- The child/nonminor dependent’s receipt of comprehensive sexual health education once before completing middle school and/or once before completing high school (as applicable) as required by the California Healthy Youth Act (Assembly Bill 329, Chapter 398, Statutes of 2015).
- The social worker/probation officer informed the child/nonminor dependent of their right, including but not limited to, access to sexual and reproductive health care information and services.
- The social worker/probation officer informed the child/nonminor dependent how to access sexual and reproductive health care services and assistance to receive such services, if necessary.

These additions are necessary for consistency with Welfare and Institutions Code section 16501.1, subdivisions (g)(20) and (21), which describe the information the social worker/probation officer must document in the case plan for a foster child age 10 or older enrolled in middle school or high school and a nonminor dependent enrolled in high school.

Under existing law in SB 528 (Chapter 338, Statutes of 2013), minors are authorized to consent to medical and other treatment under certain circumstances, including the diagnosis and treatment of sexual assault, medical care relating to the prevention or treatment of pregnancy, treatment of infectious, contagious, and communicable diseases, mental health treatment, and treatment for alcohol and drug abuse.

Section 31.320.54(a) will amend and add requirements that specify that the social worker/probation officer shall inform a foster child at age 10 or older the following in an age and developmentally appropriate manner:

- The child may consent to or decline the following types of medical care without written or verbal consent from a parent, guardian, caregiver, social worker, probation officer, or other authorized representative:
 - Care related to the prevention or treatment of pregnancy, contraception, abortion, and the diagnosis and treatment of a sexual assault including rape (at any age).

- Care related to the prevention, diagnosis, and treatment of a sexually transmitted infection (at age 12 or older).
- The child may access age-appropriate and medically accurate information about the prevention of unplanned pregnancy, abstinence, contraception, abortion, pregnancy services, and sexually transmitted infections.
- The social worker/probation officer is to inform the child/nonminor dependent how to access sexual and reproductive health care services and will facilitate access to such care, if necessary.

These additions are necessary for consistency with Welfare and Institutions Code sections 369, subdivision (h), 16501.1, subdivision (g)(20) and (21), and 16521.5. Senate Bill 528 (Chapter 338, Statutes of 2013) requires the social worker/probation officer to inform a child in foster care of their right to access age-appropriate and medically accurate information about sexual development, reproductive health, and the prevention of unplanned pregnancy and sexually transmitted infections, and to inform the foster child of their right to consent to medical care relating to the diagnosis and treatment of sexual assault, pregnancy prevention, abstinence, abortion, pregnancy services (at any age), and their right to consent to medical care related to the diagnosis, prevention or treatment of a sexually transmitted infection at age 12 or older.

AB 1127 (Chapter 216, Statutes of 1996) imposed various obligations upon foster care providers and added Section 16521.5 to the Welfare and Institutions Code. The Handbook Section 31–401.411(d) and (e) (Handbook) will be amended to specify that a foster parent does not have to give consent for a child, of any age, to receive medical care related to the prevention, testing or treatment of pregnancy, abortion, birth control, and/or sexual assault including rape. Additionally, the foster parent does not have to give consent for a child age 12 or older to receive medical care related to the prevention, testing, and treatment of a sexually transmitted infection including HIV.

This Handbook addition is necessary for consistency with Welfare and Institutions Code section 369(h), section 16501.1, subdivision (g)(20) and (21), and section 16001.9, subdivision (a)(24)(A), which specifies the rights of all minors and nonminors in foster care, and Family Code sections 6925, 6926, and 6928 which specifies the medical rights of all minors residing in California. In accordance with Assembly Bill 1127 (Chapter 216, Statutes of 1996), the Department provides the role and responsibilities of foster caregivers in “California’s Plan for the Prevention of Unintended Pregnancy for Youth and Nonminor Dependents in Foster Care.”

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state’s environment are as follows: The regulations will carry out state policy regarding the child welfare services that shall be met by county social workers to ensure the sexual and reproductive health needs of each child in placement at age 10 or older are met to promote overall safety and well-being.

**EVALUATION OF INCONSISTENCY/
INCOMPATIBILITY WITH EXISTING
STATE REGULATIONS**

The Department determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After reviewing any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations concerning the Reproductive Health of Foster Youth and Social Worker Activities.

COST ESTIMATE

- (a) **Costs or Savings to State Agencies:** These regulations added or amended in Welfare and Institution Code sections 369, 16001.9, 16501.1, and 16521.5 do not result in any additional local assistance fiscal impact that is not already captured in the State Budget. Funding for AB 175, (Chapter 416, Statutes of 2019), SB 89 (Chapter 24, Statutes of 2017), SB 528 (Chapter 338, Statutes of 2013), and AB 1127 (Chapter 216, Statutes of 1996), was provided at the year of the legislations’ enactment as necessary and do not require any additional funding.
- (b) **Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500–17630:** These regulations added or amended in Welfare and Institution Code sections 369, 16001.9, 16501.1, and 16521.5 do not result in any additional local assistance fiscal impact that is not already captured in the State Budget. Funding for AB 175, (Chapter 416, Statutes of 2019), SB 89 (Chapter 24, Statutes of 2017), SB 528 (Chapter 338, Statutes of 2013), and AB 1127 (Chapter 216, Statutes of 1996), was provided at the year of the legislations’ enactment as necessary and do not require any additional funding.
- (c) **Nondiscretionary Costs or Savings to Local Agencies:** These regulations added or amended in Welfare and Institution Code sections 369, 16001.9, 16501.1, and 16521.5 do not result in any additional local assistance fiscal impact that is not already captured in the State Budget. Funding for AB 175 (Chapter 416, Statutes of 2019), SB 89

(Chapter 24, Statutes of 2017), SB 528 (Chapter 338, Statutes of 2013), and AB 1127 (Chapter 216, Statutes of 1996), was provided at the year of the legislations’ enactment as necessary and do not require any additional funding.

- (d) **Federal Funding to State Agencies:** These regulations added or amended in Welfare and Institution Code sections 369, 16001.9, 16501.1, and 16521.5 do not result in any additional local assistance fiscal impact that is not already captured in the State Budget. Funding for AB 175, (Chapter 416, Statutes of 2019), SB 89 (Chapter 24, Statutes of 2017), SB 528 (Chapter 338, Statutes of 2013), and AB 1127 (Chapter 216, Statutes of 1996), was provided at the year of the legislations’ enactment as necessary and do not require any additional funding.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require reimbursement under the laws of California.

**STATEMENT OF SIGNIFICANT ADVERSE
ECONOMIC IMPACT ON BUSINESS**

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on [the provisions of SB 89 (Chapter 24, Statutes of 2017) which require county social workers/probation officers to document the case plan for a foster child age 10 or older and a nonminor dependent of their receipt of state-mandated comprehensive sexual health education, including that the foster child age 10 or older or nonminor dependent was informed of their sexual and reproductive health care rights. The existing statewide database, Child Welfare Services/Case Management System (CWS/CMS), maintains the delivery of services provided to children involved in California’s foster care system. As such, the Department has modified the CWS/CMS application by creating new data fields to comply with the requirements specified in Welfare and Institutions Code section 16501.1, subdivision (g)(20) and (21) in accordance with SB 89.]

STATEMENT OF POTENTIAL
COST IMPACT ON PRIVATE
PERSONS OR BUSINESSES

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

SMALL BUSINESS IMPACT STATEMENT

The Department has determined that there is no impact on small businesses because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC
IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The Department does not anticipate benefits to worker safety and the state's environment. The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows:

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination is based on the provisions of SB 89 (Chapter 24, Statutes of 2017) which require county social workers/probation officers to document the case plan for a foster child age 10 or older and a nonminor dependent of their receipt of state-mandated comprehensive sexual health education, including that the foster child of age 10 or older or nonminor dependent whom was informed of their sexual and reproductive health care rights. The existing statewide database, Child Welfare Services/Case Management System (CWS/CMS), maintains the delivery of services provided to children involved in California's foster care system. As such, the Department has modified the CWS/CMS application by creating new data fields to comply with the requirements specified in Welfare and Institutions Code section 16501.1, subdivision (g)(20) and (21) in accordance with SB 89.

STATEMENT OF EFFECT ON
HOUSING COSTS

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

STATEMENT OF
ALTERNATIVES CONSIDERED

Alternatives proposed as less burdensome and equally effective in achieving the purposes of the regulation in a manner that achieves the purposes of the statute or other law being implemented and explain a reason for rejecting each such alternative has not been proposed.

In developing the regulatory action, the Department considered the following alternatives with the following results: No other alternatives are permissible for carrying out the purpose for which the regulations are proposed, as these regulations are necessary due to the implementation of existing law found in SB 89 (Chapter 24, Statutes of 2017), SB 528 (Chapter 338, Statutes of 2013), and AB 1127 (Chapter 216, Statutes of 1996).

The Department must determine that no reasonable alternative 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 regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

You can access copies of this notice, the proposed regulation text, and the Initial Statement of Reasons on the Department's [Regulations in Process](#) page.

AUTHORITY AND
REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 16001.9 and 16501.1, Welfare and Institutions Code; Section 51930, Education Code; and Sections 6925, 6926 and 6928, Family Code.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

STATE SAFE HARBOR AGREEMENT
PROGRAM ACT CONSISTENCY
DETERMINATION NUMBER
2089–2024–001–06

Project: Safe Harbor Agreement with the Bishop Paiute Tribe for Owens Pupfish (*Cyprinodon radiosus*)

Permittee: Bishop Paiute Tribe

Location: Inyo County, California

Background

On March 8, 2024, the U.S. Fish and Wildlife Service (USFWS) approved a federal Safe Harbor Agreement (federal SHA) for a 10–year period with the Bishop Paiute Tribe (Permittee) for Owens pupfish (*Cyprinodon radiosus*) which includes the establishment of a population of Owens pupfish; maintenance and enhancement of habitat in the Community Open Space Area (COSA); operation, management, and maintenance of the water supply and drainage system; monitoring; cultural and ceremonial activities; conducting education and outreach and associated activities; and hosting visitors and school field trips (Project). Owens pupfish is designated as an endangered species pursuant to the federal Endangered Species Act (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Code Regs., title 14, § 670.5, subdivision (a)(2)(K).); and a fully protected species Fish & Game Code, § 5515, subdivision (b)(7).; and a fully protected species Fish & Game Code, § 5515, subdivision (b)(7).

Enrolled Property

The Enrolled Property consists of the COSA and the Owens Valley Paiute–Shoshone Cultural Center and Museum (Tribal Cultural Center) (Enrolled Property). The Enrolled Property occurs within the historic range of the Owens pupfish. However, at this time there are no individual Owens pupfish present, therefore baseline conditions are zero individuals. The purpose of the federal SHA is to establish the species within the Enrolled Property.

Beneficial Management Activities

The federal SHA describes beneficial management activities that will take place as part of the Project. These include, but are not limited to:

- The Permittee will provide suitable habitat for the establishment of an Owens pupfish population(s) at the Enrolled Property;
- Biologists from USFWS and/or the California Department of Fish and Wildlife (CDFW), and those assisting under their direct supervision, may capture and translocate Owens pupfish from within the Enrolled Property for purposes of establishment elsewhere within the Enrolled Property (including aquariums covered under the federal SHA);
- The Permittee will maintain Owens pupfish suitable habitat at the Enrolled Property for the 10–year period of the federal SHA; and
- The Permittee will establish a small population of Owens pupfish in aquariums for public display at the Tribal Cultural Center, providing the public with information and education to increase their understanding of the status of the Owens pupfish population.

Net Conservation Benefit

Currently, there are no Owens pupfish individuals present within the Enrolled Property. After suitable habitat is established as part of the Project, introduction of Owens pupfish and maintenance activities could result in incidental take¹ of Owens pupfish where those activities take place within the Enrolled Property. In particular, Owens pupfish could be incidentally taken through mortality or injury to eggs, larvae, juveniles, and/or adults through suffocation, desiccation, exposure, stranding, entrapment, digging, planting, cutting, or trampling. However, Project activities are expected to provide an increase in the Owens pupfish population and will provide a net conservation benefit by:

- Establishing a population of Owens pupfish at the Enrolled Property;
- Providing areas where existing suitable habitat for Owens pupfish will be maintained in quantity and quality;
- Providing areas where suitable habitat for Owens pupfish will remain relatively undisturbed; and
- Establishing a diverse population that could be used to establish future populations of Owens pupfish.

Consistency Determination Request

On March 18, 2024, the Director of the CDFW received a notice from the Permittee, requesting a de-

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection 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”).

termination pursuant to Fish and Game Code section 2089.22(a) that the federal SHA is consistent with California State Safe Harbor Agreement Program Act for purposes of the Project and Owens pupfish. (Cal. Regulatory Notice Register 2024, Number 13–Z, p. 372.)

Determination

CDFW has determined that the federal SHA with proposed incidental take of the Owens pupfish is consistent with the California State Safe Harbor Agreement Program Act because the conservation, avoidance, and minimization measures contained in the federal SHA meet the conditions set forth in California Fish and Game Code sections 2089.22 and 2089.6 for authorizing incidental take of Owens pupfish. Specifically, CDFW finds that: (1) take of the Owens pupfish will be incidental to an otherwise lawful activity; (2) implementation of the federal SHA is reasonably expected to provide a net conservation benefit to the Owens pupfish; (3) the Project will not jeopardize the continued existence of the Owens pupfish; (4) the Permittee has agreed, to the maximum extent practicable, to avoid or minimize any incidental take authorized by the federal SHA, including returning to baseline conditions; (5) the federal SHA has established an approved monitoring program; (6) CDFW has determined that sufficient funding is ensured to complete surveys on the property and there is sufficient funding to carry out management actions and monitoring for the duration of the federal SHA; and (7) implementation of the federal SHA is not in conflict with a CDFW–approved conservation or recovery program for the Owens pupfish.

Avoidance and Minimization Measures

The avoidance and minimizations in the federal SHA include, but are not limited to, the following:

- 1) The Permittee will not intentionally introduce non–native fish species into the ponds in the COSA.
- 2) The Permittee will ensure that all education and outreach event activities will not disturb the Owens pupfish or their habitats, or any other listed species or their habitats.
- 3) The Permittee will ensure that its members and visitors (including schoolchildren) will be informed of the presence of any federally listed species that occur on the COSA and will be informed of areas that provide habitat for listed species. Members of the Bishop Paiute Tribe and visitors will be instructed to avoid disturbing listed species and their habitat.

Monitoring and Reporting Measures

Monitoring and reporting measures included in the federal SHA include, but are not limited to, the following:

- 1) The Permittee will conduct surveys for Owens pupfish in suitable habitat.
- 2) The Permittee will monitor the implementation and progress of the Management Activities in Part 6.0 of the federal SHA and provide CDFW and the USFWS with the status of these activities in an annual report.
- 3) The Permittee will allow reasonable access by CDFW and the USFWS onto the COSA, upon advance notice to the Permittee and accompanied by a Bishop Paiute Tribal representative, for purposes related to this Agreement, including the following: translocation and establishment of the Owens pupfish; maintenance of Owens pupfish habitat; eradication of non–native predatory species; surveys and monitoring; implementation of the Management Activities in Part 6.0 of the federal SHA; and capture and relocation of Owens pupfish.
- 4) The Permittee will verbally notify CDFW and the USFWS within five business days if any Bishop Paiute Tribal member or employee observes the following: a substantial and unplanned change in any water depth in a pond(s) occupied by Owens pupfish, a failure in the water supply or drainage system that would affect a pond(s) occupied by Owens pupfish, signs of water pollution, or an unusual mortality event of Owens pupfish. The notification will include the date, time, location, cause if known, and any other pertinent information.
- 5) If an unusual mortality event of Owens pupfish is observed, the Permittee will provide an email message or written report to the USFWS and CDFW, containing the detail from the verbal notification and, if possible, a photograph(s), within 3 weeks of its finding.
- 6) The Permittee will provide CDFW and the USFWS with an annual report, due June 1 of each year, covering activities during the previous year. The report will describe any translocation and establishment activities, any habitat restoration activities, any substantial change in condition of the population and/or its habitat, any observations of by the Permittee, and any incidental take of that has occurred.

Funding

Funding was provided by the federal Bureau of Reclamation to evaluate the potential of the area for

the creation of a native fish refuge and to repair the subsurface drainage system on the property. Funding was provided for repairing and installing water lines, designing and constructing ponds for native fish, installing interpretative signs and kiosks, and constructing up to 3,000 feet (914.4 meters) of walking trails to connect the site with the Tribal Cultural Center and off-reservation public schools. The Permittee has committed to the responsibility of securing and ensuring sufficient funding to carry out the management and monitoring actions described in the federal SHA.

Incidental Take Authorization

Pursuant to Fish and Game Code section 2089.22(a), if a federal SHA is approved pursuant to applicable provisions of federal law and the federal SHA includes species that are both federally and state listed, no further approval under the California State Safe Harbor Agreement Program Act (Fish & Game Code, § 2089.2 et seq.) is required for incidental take of those species provided the permittee implements the Project and future land and water use and management practices as described in the approved federal SHA and CDFW determines the federal SHA is consistent with applicable criteria. Additionally, the Permittee must adhere to all measures contained in the approved federal SHA.

If there are any substantive changes or amendments to the federal SHA the permittee shall be required to obtain a new consistency determination from CDFW (see generally Fish & Game Code, §§ 2081.1, 2081, subdivisions (b) and (c)). Any CDFW authorization pursuant to Fish and Game Code section 2089.22(a) to take species identified in the federal SHA shall terminate immediately upon the expiration or termination of the federal SHA.

DEPARTMENT OF FISH AND WILDLIFE

**CESA CONSISTENCY DETERMINATION
REQUEST FOR
LAGUNITAS CREEK WATERSHED
ENHANCEMENT PROJECT
2080–2024–007–03 (R)
MARIN COUNTY, CA**

The California Department of Fish and Wildlife (CDFW) received a notice on April 18, 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 (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. On April 18, 2024, Marin Municipal Water District updated and resubmitted their application to USFWS for inclusion of the project under the PCBO for state and federally endangered California freshwater shrimp (*Syncaris pacifica*). On April 18, 2024, USFWS determined that the project fits within the scope of the PCBO. This new application and PCBO supersedes the previous application.

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.

**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.

State Water Resources Control Board

File # 2024-0409-01

Fiscal Year 2023-24 Sustainable Groundwater Management Act (SGMA) Fees

This emergency rulemaking action amends the volumetric portion of the annual filing fee associated with certain groundwater extraction reporting required under the Sustainable Groundwater Management Act of 2014. Pursuant to Water Code section 1530, these emergency regulations shall remain in effect until revised by the State Water Resources Control Board.

Title 23
Amend: 1040
Filed 04/17/2024
Effective 04/17/2024
Agency Contact: Sarah Fong (916) 341-5129

Fish and Game Commission

File # 2024-0326-01

Inyo Rock Daisy

This action adds *Perityle inyoensis* synonym *Laphamia inyoensis* (Inyo rock daisy) to the list of California native plants declared to be threatened. This action is exempt from the Administrative Procedure Act pursuant to Fish and Game Code section 2075.5(e).

Title 14
Amend: 670.2
Filed 04/24/2024
Effective 04/24/2024
Agency Contact: Jennifer Bacon (916) 902-9285

California Victim Compensation Board

File # 2024-0306-03

Indemnification of Victims of Crime

This regular rulemaking action by the California Victim Compensation Board amends sections 649.7, 649.15, 649.16, 649.18, 649.19, 649.24, 649.28 and 649.50 of Title 2 of the California Code of Regulations regarding indemnification of victims of crime.

Title 02
Amend: 649.7, 649.15, 649.16, 649.18, 649.19, 649.24, 649.28, 649.50
Filed 04/17/2024
Effective 07/01/2024
Agency Contact: Neil Ennes (916) 491-3728

Commission on Peace Officer Standards and Training

File # 2024-0318-01

Definition of Serious Misconduct

In this rulemaking action, the Commission on Peace Officer Standards and Training clarifies what it means to demonstrate bias.

Title 11
Amend: 1205
Filed 04/18/2024
Effective 04/18/2024
Agency Contact: Michelle Weiler (916) 227-4870

Department of Corrections and Rehabilitation

File # 2024-0319-01

Visiting

In this regular rulemaking, the Department of Corrections and Rehabilitation is amending regulations regarding searching and inspecting visitors, standards of dress for visitors, and denying a visitor access to an institution or facility.

Title 15
Amend: 3173.2, 3174, 3176
Filed 04/22/2024
Effective 04/22/2024
Agency Contact: Sarah Pollock (916) 445-2308

Department of Motor Vehicles

File # 2024-0311-04

Governmental Entity Requester Codes

This action by the Department of Motor Vehicles ("Department") repeals incorporated Form INF 1130 (12/90), titled "Information Services Program Governmental Requester Account Application"; adopts and incorporates by reference Form INF 1130 (Rev. 4/2023), titled "Government Requester Account Application," and Form INF 1130 A (Rev. 12/2023), titled "Government Requester Account Application for California Courts, Tax Collectors, and Parking/

Toll Agencies”; and requires that Form INF 1130 (Rev. 4/2023) and Form INF 1130 A (Rev. 12/2023) be submitted to the Department electronically through the Department’s online portal.

Title 13
Amend: 350.06
Filed 04/23/2024
Effective 07/01/2024
Agency Contact: Randi Calkins (916) 282–7294

Fish and Game Commission
File # 2024–0402–01
Recreational Fishing for Federal Groundfish in 2024

This action amends state recreational fishing regulations including seasons, depth limits, and the Rockfish Conservation Area boundaries, as well as bag limits for all Groundfish Management Areas.

Title 14
Amend: 27.20, 27.25, 27.30, 27.35, 27.40, 27.45,
27.50, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49,
28.54, 28.55, 28.56
Filed 04/19/2024
Effective 04/19/2024
Agency Contact:
Sherrie Fonbuena (916) 902–9284

**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.