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PROPOSED ACTION ON REGULATIONS

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Time- Dated Material

RULEMAKING PETITION DECISIONS

OAL REGULATORY DETERMINATION

SUMMARY OF REGULATORY ACTIONS

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT–OF–INTEREST CODES

AMENDMENT

STATE AGENCY: Department of Tax and Fee Administration

A written comment period has been established commencing on September 4, 2026, and closing on October 19, 2026. Written comments should be directed to the Fair Political Practices Commission, Attention: Maia Kocinsky–Kirkham, 1102 Q Street, Suite 3050, Sacramento, California 95811.

At the end of the 45–day comment period, the proposed conflict–of–interest code will be submitted to the Commission's Executive Director for their review, unless any interested person or their duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code will be submitted to the Commission for review.

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

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

Any interested person may present statements, arguments, or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict–of–interest code. Any written comments must be received no later than October 19, 2026. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict–of–interest code should be made to Maia Kocinsky–Kirkham, Fair Political Practices Commission, 1102 Q Street, Suite 3050, Sacramento, California 95811, or email mkocinsky–kirkham@fppc.ca.gov.

AVAILABILITY OF PROPOSED CONFLICT–OF–INTEREST CODES

Copies of the proposed conflict–of–interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Maia Kocinsky–Kirkham, Fair Political Practices Commission, 1102 Q Street, Suite 3050, Sacramento, California 95811, or email mkocinsky–kirkham@fppc.ca.gov.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

COMMERCIAL FEED LABEL MODERNIZATION

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to adopt and amend regulations as described below within the California Code of Regulations Title 3 (3 CCR), Division 4, Chapter 2, Subchapter 2, Articles 1, 2, 3, 4, 5, and 14, Sections 2675, 2676, 2677, 2678, 2679, 2680, 2680.1, 2683, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, 2699, 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2778, 2789, 2790, and 2791.

PUBLIC HEARING

A public hearing is not scheduled. However, any interested person or his or her duly authorized representative may request a public hearing on this proposed action by submitting a written request no later than 15 days before the close of the written comment period noted below.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department by mail or email. The written comment period will close on **October 19, 2026**. The Department will only consider comments received by that date. Submit written comments to:

Erika Lewis, Research Data Specialist II
California Department of Food and Agriculture
Feed, Fertilizer, and Livestock Drugs Regulatory Services Branch
1220 N Street
Sacramento, CA 95814
Email: feed_lvstk@cdfa.ca.gov

Following the written comment period or public hearing, if one is requested, and after considering all comments, objections, and recommendations regarding the proposed actions, the Department, at its own motion or at the request of any interested person, may adopt the proposal substantially as set forth without further notice.

AUTHORITY AND REFERENCE

The Department is proposing to adopt changes to 3 CCR, Division 4, Chapter 2, Subchapter 2 pursuant to the authority vested by Sections 407, 14902, 14903, and 14992 of the Food and Agricultural Code (FAC) to adopt, implement, and enforce these regulations. The proposed regulations will implement, interpret, or make specific FAC Sections 14902.1, 14903, 14925, 14930, 14938, 14991, 14992, 14993, 14994, 15011, 15031, 15041, 15042, and 15073 of the Food and Agricultural Code.

INFORMATIVE DIGEST/POLICY STATEMENT

The Department's Commercial Feed Regulatory Program (CFRP) is responsible for the enforcement of California state law and regulations pertaining to the manufacturing, distribution and labeling of commercial feed while preventing adulterated feed from being consumed by livestock. Inspectors and investigators located throughout the state conduct routine feed sampling and inspections, quality assurance inspections of feed manufacturing facilities, respond to consumer complaints, and enforce the laws and regulations that govern the manufacturing, distribution, and labeling of commercial feed. The work of the CFRP helps to ensure a clean and wholesome supply of milk and meat, as well as providing assurance that the product received by the consumer is the quality and quantity purported by the manufacturer.

CFRP is proposing the adoptions and revisions to 3 CCR, Division 4, Chapter 2, Subchapter 2 described below. These proposed regulations govern various aspects of commercial feed, including specifying recognized official names of commercial feed ingredients and their acceptable uses, definitions, labeling requirements, production and manufacturing, and enforcement activities.

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Sections 2675 is being amended to change the weight cutoff for bulk versus packaged feed and adopt definitions for feed through pesticide, supplement, free choice, livestock, and raw agricultural commodity.

ARTICLE 2. COMMERCIAL FEED CONTAINING DRUGS, FOOD ADDITIVES, OR HARMFUL SUBSTANCES

The title of **Article 2** is being amended to **Prohibited Substances in Commercial Feed and Tolerances**.

Sections 2676, 2677, 2678, 2679, 2680, and 2680.1 are being amended to relocate all provisions pertaining to prohibited substances and tolerances from throughout the subchapter, correct outline structure, update section titles, incorporate Food and Drug Administration Compliance Policy Guide 575.100 by reference, repeal outdated provisions, correct typographical errors, add daily fluorine intake limit, specify tolerances for mineral contaminants in ingredients, and specify tolerances for mineral contaminants in complete feed.

ARTICLE 3. CUSTOM FORMULA FEED.

Section 2683 is being amended to update labeling requirements, specify that the manufacturer is responsible for evaluating safety, and to require the purchaser, or a nutritionist on behalf of the purchaser, to provide the manufacturer with the intended species, feeding rates, and mixing rates for feed that meets the specified criteria.

ARTICLE 4. LABELING AND USE REQUIREMENTS

Sections 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, and 2699 are being amended to update section titles, relocate all provisions pertaining to labeling from throughout the subchapter, to split Section 2694 out into multiple numbered sections organized by label element, and update labeling requirements for consistency with national standards.

ARTICLE 5. COMMERCIAL FEEDS CONTAINING DRUGS AND SPECIAL PROVISIONS

The title of **Article 5** is being amended to **Commercial Feeds Containing Drugs or Food Additives**.

Sections 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, and 2708 are being amended to update section titles, relocate all provisions pertaining to drugs and food additives from throughout the subchapter, and add requirements for labeling and use of free choice feed, feed through pesticides, and feed containing added chromium.

ARTICLE 14. DEFINITIONS AND STANDARDS

Sections 2778, 2789, 2790, and 2791 are being amended to add acceptable collective terms and conditions for use, fix a typographical error, relocate labeling provisions for chromium ingredients to Article 5, remove the definition of charcoal (vegetable), and renumber subparagraphs.

DOCUMENTS INCORPORATED BY REFERENCE

FDA Compliance Policy Guide Sec. 575.100 Pesticide Residues in Food and Feed — Enforcement Criteria, March 1995. https://www.fda.gov/regulatory–information/search–fda–guidance–documents/cpg–sec–575100–pesticide–residues–food–and–feed–enforcement–criteria.

Publishing the document referenced above in the CCR would be cumbersome, unduly expensive, or otherwise impractical due to its length. Incorporation by reference is appropriate because this document is reasonably available to the affected public from a commonly known or specified source.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

Anticipated benefits of the proposed regulations include increased consistency with national standards. This will ensure the Department remains consistent with FDA requirements and result in increased clarity for the regulated industry. This will also reduce the burden on industry resulting from inconsistent labeling requirements among states.

INCONSISTENCY/INCOMPATIBILITY WITH EXISTING REGULATIONS

The Department evaluated the proposed regulations and made several determinations required by Government Code Section 11346.5(a)(3)(A) to 11346.5(a)(3)(D). The Department determined that there are no existing state laws or regulations related directly to the proposed action and the effect of the proposed action; the proposed regulations are not inconsistent or incompatible with existing state regulations.

PLAIN ENGLISH REQUIREMENT

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

Other nondiscretionary costs or savings imposed upon local agencies: None.

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

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

Cost impacts on a 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 action.

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

California Government Code Section 11346.3 requires state agencies to assess the potential economic impacts on California businesses and individuals when proposing to adopt or amend any administrative regulation. The Department has initially determined that the proposed regulatory action will not have a negative economic impact on any business. The proposed regulatory actions are technical in nature and will provide clarity to the regulated industry. These clarifying changes will not have a negative economic or fiscal impact on the commercial feed industry, related businesses, or the general public.

The Department concludes that these regulations:

(1) Will not require any additional ongoing expenses for compliant individuals or businesses.

(2) Will not create or eliminate jobs within the state.

(3) Will not create new businesses or eliminate existing businesses within the State of California.

(4) Will not affect the expansion of businesses currently operating within the State of California.

(5) Will benefit the health and welfare of California residents utilizing feed for their livestock by increasing consistency with national standards, increasing clarity for the regulated industry, avoiding disruptions to interstate commerce, and enhancing feed safety and consumer protection.

(6) Will not affect worker safety, or the state's environment.

SMALL BUSINESS DETERMINATION

The Department has determined that the proposed regulations will affect small businesses but will not have an economic impact on those businesses. The proposed actions do not involve any area that would increase fees or result in any increased costs to these businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Written comments and inquiries concerning the substance of the proposed regulation, initial statement of reasons, proposed actions, location of the rulemaking file, or a request for a public hearing should be directed to:

Erika Lewis, Research Data Specialist II
California Department of Food and Agriculture
Feed, Fertilizer, and Livestock Drugs Regulatory Services Branch
1220 N Street
Sacramento, CA 95814
Email: feed_lvstk@cdfa.ca.gov
Phone: 916–900–5022

The backup contact person for these inquiries is:

Ashley James, Research Data Analyst II
California Department of Food and Agriculture
Feed, Fertilizer, and Livestock Drugs Regulatory Services Branch
1220 N Street
Sacramento, CA 95814
Email: feed_lvstk@cdfa.ca.gov
Phone: 916–900–5022

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. A copy of this notice, the proposed regulation text, and the initial statement of reasons may be obtained by contacting Erika Lewis at the address provided in the "Contact Persons" section.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the notice of proposed action, the initial statement of reasons, and the proposed regulation text in underline and strikethrough can be accessed through the Department's website: https://www.cdfa.ca.gov/is/regulations/ffldrs_regulations.html.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received during the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which differ, but 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 prior to amendment. Please send requests for copies of any modified regulations to the attention of Erika Lewis at the address provided in the "Contact Persons" section. 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 contacting Erika Lewis at the address provided in the "Contact Persons" section.

TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

ELECTRONIC VOTING

The Public Employment Relations Board (PERB or Board) proposes to adopt or amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to adopt new sections 32721, 32999.1, 61101, 72136, 81101, and 91101, and amend sections 32722, 32724, 32726, 32728, 32732, 32734, 32738, 32746, 32748, 32998, 32999, 33000, 33003, 33004, 33005, 33006, 33007, 33008, 33009, 61105, 61110, 61115, 61120, 61130, 61135, 61150, 61175, 61180, 72135, 72140, 72147, 72150, 72155, 72165, 72170, 72175, 72205, 81105, 81110, 81115, 81120, 81130, 81135, 81150, 81175, 81180, 91105, 91110, 91115, 91120, 91130, 91135, 91150, 91175, and 91180.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 327–6377 or by email at james.coffey@perb.ca.gov. The written comment period closes on October 21, 2026, which is 47 days after the publication of this notice. The Board will only consider comments received at the Board offices by that time. Submit written comments to:

James E. Coffey, Principal Attorney Supervisor
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811

AUTHORITY AND REFERENCE

A. Authority

Pursuant to Government Code section 3541.3(g), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Educational Employment Relations Act (EERA; Government Code section 3540 et seq.). Pursuant to Government Code sections 3509(a) and 3541.3(g), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Meyers–Milias–Brown Act (MMBA; Government Code section 3500 et seq.). Pursuant to Government Code sections 3513(h) and 3541.3(g), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Ralph C. Dills Act (Dills Act; Government Code section 3512 et seq.). Pursuant to Government Code section 3563(f), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Higher Education Employer–Employee Relations Act (HEERA; Government Code section 3560 et seq.). Pursuant to Public Utilities Code section 99561(f), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Los Angeles County Metropolitan Transportation Authority Transit Employer–Employee Relations Act (TEERA; Public Utilities Code section 99560 et seq.). Pursuant to Government Code sections 3541.3(g) and 71639.1(b), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Employment Protection and Governance Act (Trial Court Act; Government Code section 71600 et seq.). Pursuant to Government Code sections 3541.3(g) and 71825(b), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act; Government Code section 71800 et seq.). Pursuant to Government Code sections 3524.52(a) and 3541.3(g), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Judicial Council Employer–Employee Relations Act (JCEERA; Government Code section 3524.50 et seq.). Pursuant to Government Code sections 3541.3(g) and 3555.5(c), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Public Employee Communication Chapter (PECC; Government Code section 3555 et seq.). Pursuant to Government Code sections 3541.3(g) and 3551(a), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Prohibition on Public Employers Deterring or Discouraging Union Membership Chapter (PEDD; Government Code section 3550 et seq.). Pursuant to Welfare and Institutions Code section 10421(e), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Building a Better Early Care and Education System Act (Childcare Provider Act; Welfare and Institutions Code section 10420 et seq.). Pursuant to Public Utilities Code section 40122.1(a) and Government Code section 3541.3(g), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Orange County Transit District Act (OCTDA; Public Utilities Code section 40120 et seq.). Pursuant to Public Utilities Code section 28849(b) and Government Code section 3541.3(g), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the San Francisco Bay Area Rapid Transit District Act (BART Act; Public Utilities Code section 28848 et seq.). Pursuant to Public Utilities Code section 102399(b) and Government Code section 3541.3(g), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Sacramento Regional Transit District Act (SacRTD Act; Public Utilities Code section 102398 et seq.). Pursuant to Public Utilities Code section 98160.5 and Government Code section 3541.3(g), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Santa Cruz Metropolitan Transit District Act (SC Metro Act; Public Utilities Code section 98160 et seq.). Pursuant to Public Utilities Code section 100309(b), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Santa Clara Valley Transportation Authority Act (VTA; Public Utilities Code section 100300 et seq.). Pursuant to Government Code section 7470.21, the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Transportation Network Company Drivers Labor Relations Act (TNC Act; Government Code section 7470 et seq.). Pursuant to Government Code section 3599.52(a) and Government Code section 3541.3(g), the Board is authorized to adopt, amend, and repeal rules and regulations to carry out the provisions and effectuate the purposes and the policies of the Legislature Employer–Employee Relations Act (LEERA); Government Code section 3599.50 et seq.).

B. References

The proposed new and amended regulations below reference the following:

General reference: Sections 3502.5, 3507, 3507.1, 3509, 3513(h), 3520.5(b), 3524.52(a), 3524.74(a), 3524.74(b), 3524.74(d), 3541.3, 3544.1(a), 3544.3, 3544.7(a), 3546, 3563(c), 3563(f), 3574(a), 3577, 3579(e), 3583.5, 3600, 3603(a), 71632.5, 71636, 71636.3, 71637, 71637.1, 71639.1, 71814, 71823 and 71825, Government Code. Sections 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(c), 99561(e), 99561(f), 99561(k), 99561(l), 99564, 99564.1, 99564.2, 99564.3, 99564.4, 99566.1, 100301, 101344, 102403, 103401, 120505, 125521 and Appendix 1, Section 4.4 and Appendix 2, Section 13.91, Public Utilities Code.

POLICY STATEMENT OVERVIEW

PERB is a quasi–judicial agency which oversees public sector collective bargaining in California, and collective bargaining for a limited number of private transit network companies. PERB presently administers eighteen collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB are: the Meyers–Milias–Brown Act (MMBA) of 1968, establishing collective bargaining for California's city, county, and local special district employers and employees; the Educational Employment Relations Act (EERA) of 1976, establishing collective bargaining in California's public schools (K–12) and community colleges; the State Employer–Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act), establishing collective bargaining for state government employees; the Higher Education Employer–Employee Relations Act (HEERA) of 1979, extending the same coverage to the California State University System, the University of California System, and Hastings College of Law; the Los Angeles County Metropolitan Transportation Authority Transit Employer–Employee Relations Act (TEERA) of 2003, establishing collective bargaining rights for supervisory employees of the Los Angeles County Metropolitan Transportation Authority; the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002, together establishing collective bargaining rights for most trial court employees; the Public Employee Communication Chapter (PECC) of 2017, granting PERB jurisdiction over violations of the PECC; the Prohibition on Public Employers Deterring or Discouraging Union Membership (PEDD) of 2018, granting PERB jurisdiction over violations of the PEDD; and the Building a Better Early Care and Education System Act of 2019, known as the Childcare Provider Act (CCPA), establishing collective bargaining for family childcare providers who participate in a state–funded early care and education program.

In 2019, the Legislature amended the Orange County Transit District Act (OCTDA), granting PERB jurisdiction over unfair practice charges at the Orange County Transportation Authority. In 2020, the Legislature amended the San Francisco Bay Area Rapid Transit District Act (BART Act), granting PERB jurisdiction over disputes relating to employer–employee relations at the Bay Area Rapid Transit District. In 2021, the Legislature granted PERB jurisdiction over disputes relating to employer–employee relations at the Sacramento Regional Transit District (SacRTD) for those exclusive representatives that have elected to move one or more of its bargaining units to PERB's jurisdiction for unfair practice charges. In 2022, the Legislature amended the Santa Cruz Metropolitan Transit District Act (SC Metro Act), granting PERB jurisdiction over unfair practice charges at the Santa Cruz Metropolitan Transit District. In 2022, the Legislature granted PERB jurisdiction over disputes relating to employer–employee relations at the Santa Clara Valley Transportation Authority (VTA) for those exclusive representatives that have elected to move one or more of its bargaining units to PERB's jurisdiction for unfair practice charges. Starting January 1, 2026, PERB acquired jurisdiction over a limited number of transit network companies under the Transportation Network Company Drivers Labor Relations Act (TNC Act; Government Code section 7470 et seq.). On July 1, 2026, the Legislature tasked PERB with jurisdiction over certain employees of the California Legislature — the state's bicameral lawmaking body consisting of the Assembly and the Senate.

Many of these statutes charge PERB, or the State Mediation and Conciliation Service (SMCS), a division of PERB, with processing representation petitions. Representation petitions are filed in several circumstances, including where an employee organization seeks to become a bargaining unit's exclusive representation, employees seek to decertify the incumbent exclusive representative, and where the exclusive representative or employer seeks to modify an existing bargaining unit. PERB may be required to conduct a representation election under several scenarios, including most commonly: (a) to determine if a majority of the employees vote to recognize an employee organization as their exclusive representative or to choose between two competing employee organizations; or (b) to remove or decertify a union as the exclusive representative of a unit of employees.

PERB currently conducts virtually all elections by mail. In some circumstances, electronic voting is preferable to mail voting, based on the nature of the employee group, or the parties prefer an electronic election. These proposed regulations and amendments aim to increase the availability of electronic voting and clarify the procedures for such elections. Further, the proposed new and amended regulations clarify existing election procedures for all elections.

INFORMATIVE DIGEST

A. Adoption of New Sections

Proposed section 32721, subdivision (a), establishes the election methods available for representation proceedings. The methods available are on–site election, mailed ballot election, electronic ballot election, or any combination of these methods. Depending on the issuance of either a Directed Election Order (an order issued by a Board agent providing specific instructions regarding the conduct of the election) or a Consent Election Agreement (an agreement by the parties regarding the conduct of an election approved by the Board agent), an election may be conducted by one method or a combination of methods, unless otherwise required by statute to utilize a specific method.

Proposed subdivision (b) provides that PERB will not charge the parties for elections conducted on–site or via mailed ballots. As for electronic ballot elections, PERB would be required to cover election costs if it has determined that on–site and/or mail ballots would be unreasonable based on the nature of the employee group. If it is reasonable to conduct an on–site election and/or mailed ballot election but the parties agree to a Consent Election Agreement approved by PERB that involves electronic ballots, the parties would be billed for the amount charged by the third–party vendor PERB uses to assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

Proposed section 32999.1 establishes the election methods available for representation proceedings facilitated by California State Mediation and Conciliation Service (SMCS). Proposed subdivision (a) provides the methods available are on–site election, mailed ballot election, electronic ballot election, or any combination of these methods. As set forth in a parties' Consent Election Agreement, an election may be conducted by one method or a combination of methods, unless otherwise required by statute.

Proposed section 61101 establishes the election methods available for representation proceedings under the Meyers–Milias–Brown Act (MMBA). Proposed subdivision (a) establishes the election methods available for representation proceedings. The methods available are on–site election, mailed ballot election, electronic ballot election, or any combination of these methods. Depending on the issuance of either a Directed Election Order or a Consent Election Agreement, an election may be conducted by one method or a combination of methods.

Proposed subdivision (b) provides that PERB will not charge the parties for elections conducted on–site or via mailed ballots. As for electronic ballot elections, PERB would be required to cover election costs if it has determined that on–site and/or mail ballots would be unreasonable based on the nature of the employee group. If it is reasonable to conduct an on–site election and/or mailed ballot election but the parties agree to a Consent Election Agreement approved by PERB that involves electronic ballots, the parties would be billed for the amount charged by the third–party vendor PERB uses to assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

Proposed section 72136 applies to representation elections under the Public Utilities Code Transit Labor Relations Act other than the Los Angeles County Metropolitan Transportation Authority Transit Employer–Employee Relations Act (TEERA). Proposed subdivision (a) establishes the election methods available for representation proceedings. The methods available are on–site election, mailed ballot election, electronic ballot election, or any combination of these methods. Depending on the issuance of either a Directed Election Order or a Consent Election Agreement, an election may be conducted by one method or a combination of methods.

Proposed subdivision (b) provides that SMCS will not charge the parties for elections conducted on–site or via mailed ballots. As for electronic ballot elections, SMCS would be required to cover election costs if it has determined that on–site and/or mail ballots would be unreasonable based on the nature of the employee group. If it is reasonable to conduct an on–site election and/or mailed ballot election but the parties agree to a Consent Election Agreement approved by SMCS that involves electronic ballots, the parties would be billed for the amount charged by the third–party vendor PERB uses to assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

Proposed section 81101 applies to elections under the Trial Court Employment Protection and Governance Act (Trial Court Act). Proposed subdivision (a) establishes the election methods available for representation proceedings. The methods available are on–site election, mailed ballot election, electronic ballot election, or any combination of these methods. Depending on the issuance of either a Directed Election Order or a Consent Election Agreement, an election may be conducted by one method or a combination of methods.

Proposed subdivision (b) provides that PERB will not charge the parties for elections conducted on–site or via mailed ballots. As for electronic ballot elections, PERB would be required to cover election costs if it has determined that on–site and/or mail ballots would be unreasonable based on the nature of the employee group. If it is reasonable to conduct an on–site election and/or mailed ballot election but the parties agree to a Consent Election Agreement approved by PERB that involves electronic ballots, the parties would be billed for the amount charged by the third–party vendor PERB uses to assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

Proposed section 91101 applies to elections under the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act). Proposed subdivision (a) establishes the election methods available for representation proceedings. The methods available are on–site election, mailed ballot election, electronic ballot election, or any combination of these methods. Depending on the issuance of either a Directed Election Order or a Consent Election Agreement, an election may be conducted by one method or a combination of methods.

Proposed subdivision (b) provides that PERB will not charge the parties for elections conducted on–site or via mailed ballots. As for electronic ballot elections, PERB would be required to cover election costs if it has determined that on–site and/or mail ballots would be unreasonable based on the nature of the employee group. If it is reasonable to conduct an on–site election and/or mailed ballot election but the parties agree to a Consent Election Agreement approved by PERB that involves electronic ballots, the parties would be billed for the amount charged by the third–party vendor PERB uses to assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

B. Amendment to the Text of Existing Sections

Section 32722, subdivision (b) provides that if the Board engages a vendor to assist with an election, the Board will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 32724, subdivision (b) currently provides for the Board to serve a notice of election on the parties. The proposed amendment additionally requires the Board to provide instructions to the parties on posting and circulating the notice of election. Because of this addition, subdivision (b)(1) is deleted.

Subdivision (c) requires the Board to supply the employer with sufficient copies of the notice for posting and specifies that the notice should be posted by the date specified on the Consent Election Agreement or the Directed Election Order. The proposed amendment clarifies that the Consent Election Agreement needs to be approved (as stated in proposed section 32721).

Section 32726, subdivision (a) provides that the employer must file the list of voters for an election by a date established by the Board. The proposed amendment adds that the date can be established in an approved Consent Election Agreement. The proposed amendment also deletes the outdated requirement to file "with the regional office" as the electronic filing portal (ePERB) does not require fillings by region.

The proposed amendment also clarifies that the list of voters is based on the Directed Election Order or approved Consent Election agreement, as supplemented by any further eligibility determinations. Because of this addition the proposed amendment deletes the reference to "of the cutoff date for voter eligibility."

Another proposed amendment deletes the outdated requirement that the employer provide PERB with two sets of mailing labels for each eligible voter.

Lastly, a proposed amendment details the information that must be provided in the voter list for an electronic election, as the section already details the information that must be provided for on–site and mailed ballot elections.

Section 32728 concerns voter eligibility in elections. The proposed amendment states voter eligibility is subject to the Directed Election Order or approved Consent Election Agreement.

Section 32732, subdivision (a) concerns challenges to voter eligibility. The proposed amendment clarifies that in addition to a Board agent, an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A challenged ballot may be cast.

Subdivision (b) of the proposed amendment clarifies that in all types of elections a Directed Election Order or approved Consent Election Agreement will specify the procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition to set a deadline for when challenges to voter eligibility must be filed with PERB. For elections that do not include electronic ballots, challenges must be filed before the tally of ballots. For elections that include electronic ballots, the Directed Election Order or approved Consent Election Agreement sets the date when challenges must be filed.

Section 32734, subdivision (a) provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 32738, subdivision (a) specifies the period in which objections may be filed. The proposed deletion removes "with the regional office" as PERB's electronic filing portal does not require filing with the regional office. Also, the amendment corrects a grammatical error.

Section 32746 provides that a party can station an agent at a revised ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 32748, subdivision (a) specifies the period in which objections to the revised tally of ballots may be filed. The proposed deletion removes "with the regional office" as PERB's electronic filing portal does not require documents to be filed with the regional office. The amendment also corrects a grammatical error.

Section 32998, subdivision (b) applies to services under SMCS's purview. This subdivision concerns reimbursement of services. The proposed amendment clarifies that for representation elections pursuant to a Consent Election Agreement, SMCS will not charge for on–site or mailed ballot elections. For representation elections involving electronic ballots, SMCS will not charge for an election in which SMCS has determined that on–site and/or mail ballots would be unreasonable based on the nature of the employee group. In all other elections involving electronic ballots, SMCS will charge the amount billed by a vendor and the parties shall split it equally unless agreed otherwise. For all other election services, SMCS charges a specified amount based on the size of the bargaining unit.

Section 32999, subdivision (a) applies whenever SMCS conducts representation elections pursuant to the local rules of an MMBA, Trial Court or Court Interpreter Act employer. This subdivision currently also applies whenever SMCS conducts agency shop elections. The proposed deletion removes the reference to "agency shop," as SMCS no longer conducts such elections.

Subdivision (b) defines "Consent Election Agreement" and the proposed amendment clarifies that such agreements are between the parties "and SMCS."

Section 33000, subdivision (b) provides that if SMCS engages a vendor to assist with an election, SMCS will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 33003 requires SMCS to serve a notice of election on the parties. The proposed amendment requires SMCS also to provide instructions to the parties on posting and circulating the notice of election. Because of this addition, the last three sentences of the section are deleted.

Section 33004, subdivision (a) requires the employer to provide SMCS with the voter eligibility list by a date established by a Consent Election Agreement. The proposed amendment adds that the voter eligibility list is based on an approved Consent Election Agreement, and any supplemental agreements. Because of this addition, the proposed amendment deletes "of the cutoff date for voter eligibility."

Another proposed amendment deletes the outdated requirement that the employer provide SMCS with two sets of mailing labels for each eligible voter.

Lastly, a proposed amendment directs that the voter list for an electronic election is to be in alphabetical order and details the required voter information, as the section already provides instructions on the voter information that must be provided for on–site and mailed ballot elections.

Section 33005 concerns voter eligibility in all types of elections. The proposed amendment states voter eligibility is subject to an approved Consent Election Agreement.

Section 33006, subdivision (a) concerns challenges to voter eligibility. The proposed amendment clarifies that an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A ballot designated as challenged may be cast.

Subdivision (b) of the proposed amendment clarifies that in all types of elections, an approved Consent Election Agreement will specify the procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition setting a deadline when ballot challenges must be filed with SMCS. For an election that does not include electronic ballots, challenges must be filed before the tally of ballots. For an election that includes electronic ballots, an approved Consent Election Agreement sets the date when challenges must be filed.

Section 33007, subdivision (a) provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 33008 concerns resolution of challenges. The proposed amendments correct that SMCS, and not the Board, determines the eligibility of challenged voters.

Section 33009, subdivision (a) concerns when and where objections to the tally of ballots may be filed. The proposed amendment corrects that the objections are filed with SMCS, and not with the Board.

Subdivision (c) corrects that objections are considered by SMCS, and not by the Board.

Subdivision (f) corrects that SMCS can direct the parties to provide certain information regarding their objections.

Subdivision (g) corrects that SMCS can dismiss objections that fail to satisfy certain requirements.

Section 61105, subdivision (b) applies to elections under the MMBA and provides that if the Board engages a vendor to assist with an election, the Board will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 61110, subdivision (b) applies to elections under the MMBA and currently provides for the Board to serve a notice of election on the parties. The proposed amendment requires the Board also to provide instructions to the parties on posting and circulating the notice of election. Because of this addition, the last sentence is deleted.

Subdivision (c) requires the Board to supply the employer with sufficient copies of the notice for posting and specifies that the notice should be posted by the date specified on the Consent Election Agreement or the Directed Election Order. The proposed amendment clarifies that the Consent Election Agreement must be approved (as stated in proposed section 61101.)

Section 61115, subdivision (a) applies to elections under the MMBA and provides that the employer must provide the Board with a voter eligibility list by a date established by the Board. The proposed amendment adds that the date can be established in an approved Consent Election Agreement. The proposed amendment also deletes the outdated requirement that the employer file the eligibility list "with the regional office," as the electronic filing portal (ePERB) does not require filling by region.

The proposed amendment also clarifies that the eligibility list is based on the Directed Election Order or approved Consent Election Agreement, as supplemented by any further eligibility determinations. Because of this addition, the proposed amendment deletes "of the cutoff date for voter eligibility."

Another proposed amendment deletes the outdated requirement to provide PERB with two sets of mailing labels for each eligible voter.

Lastly, a proposed amendment directs that the employer should provide the voter list in an electronic election in alphabetical order and specifies the information to be provided for each voter, as the section already specifies the information which the employer must provide for on–site and mailed ballot elections.

Section 61120 applies to elections under the MMBA and concerns voter eligibility in elections. The proposed amendment states voter eligibility is subject to the Directed Election Order or approved Consent Election Agreement.

Section 61130, subdivision (a) applies to elections under the MMBA and concerns challenges to voter eligibility. The proposed amendment clarifies that an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A challenged ballot may be cast.

Subdivision (b) proposes to clarify that in all types of elections a Directed Election Order or approved Consent Election Agreement will specify the procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition to set a deadline for filing ballot challenges with PERB. For elections that do not include electronic ballots, challenges must be filed before the tally of ballots. For elections that include electronic ballots, the Directed Election Order or approved Consent Election Agreement sets the date when challenges must be filed.

Section 61135, subdivision (a) applies to elections under the MMBA and provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 61150, subdivision (a) applies to elections under the MMBA and specifies the period in which objections may be filed. The proposed deletion removes "with the regional office," as PERB's electronic filing portal does not require filing with the regional office. Also, the amendment corrects a grammatical error.

Section 61175 applies to elections under the MMBA and provides that a party can station an agent at the revised ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 61180, subdivision (a) applies to elections under the MMBA and specifies the period in which objections to the revised tally of ballots may be filed. The proposed deletion removes the outdated reference to "with the regional office" as PERB's electronic filing portal does not require filing with the regional office.

Section 72135 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and concerns Consent Election Agreements. The proposed amendment clarifies that the agreement will include a description of the method(s) of an election.

Section 72140, subdivision (b) applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and provides that if SMCS engages a vendor to assist with an election, SMCS will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 72147 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA. In addition to serving a notice of election on the parties, the proposed amendment requires SMCS to provide instructions to the parties on posting and circulating the notice of election. Because of this addition, the last sentence of the section is deleted.

Section 72150, subdivision (a) applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and specifies that the employer must file the eligibility list by a date established by SMCS. The proposed amendment adds that the eligibility list filing date may be contained in an approved Consent Election Agreement. The amendments also propose that the voting unit is established by the Directed Election Order or an approved Consent Election Agreement, as supplemented by any further voter eligibility determinations or agreements. Because of this addition, the proposed amendment deletes "of the cutoff date for voter eligibility."

Another proposed amendment deletes subdivision (a)'s outdated requirement that the employer provide SMCS with two sets of mailing labels each eligible voter.

Lastly, a proposed amendment details the voter information that must be contained in the eligibility list for an electronic election, as the section already specifies the information to be provided for on–site and mailed ballot elections.

Section 72155 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and concerns voter eligibility in elections. The proposed amendment states voter eligibility is subject to the Directed Election Order or approved Consent Election Agreement.

Section 72165, subdivision (a) applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and concerns challenges to voter eligibility. The proposed amendment clarifies that an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A challenged ballot may be cast.

Subdivision (b) proposes to clarify that in all types of elections the Directed Election order or an approved Consent Election Agreement will contain procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition to set a deadline for filing challenges with SMCS. For elections that do not include electronic ballots, challenges must be filed before the tally of ballots. For elections that include electronic ballots, the Directed Election Order or an approved Consent Election Agreement sets the deadline to file challenges.

Section 72170, subdivision (a) applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 72175 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and concerns resolution of challenges. The proposed amendment clarifies that SMCS resolves ballot challenges, unless otherwise provided by a consent election agreement that is approved.

Section 72205 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and provides that a party can station an agent at a revised ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 81105, subdivision (b) applies to elections under the Trial Court Act and provides that if the Board engages a vendor to assist with an election, the Board will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 81110, subdivision (b) applies to elections under the Trial Court Act. In addition to requiring the Board to serve a notice of election on the parties, the proposed amendment requires the Board to provide instructions to the parties on posting and circulating the notice of election. Because of this addition, the last sentence of the section is deleted.

Subdivision (c) requires the Board to supply the employer with sufficient copies of the notice for posting and specifies that the notice should be posted by the date specified on the Consent Election Agreement or the Directed Election Order. The proposed amendment clarifies that the Consent Election Agreement needs to be approved (as stated in proposed section 81101).

Section 81115, subdivision (a) applies to elections under the Trial Court Act and provides that the employer must file the voter eligibility list by a date established by the Board. The proposed amendment adds the alternative that the date can be established by an approved Consent Election Agreement. The proposed amendment also deletes the outdated requirement that the employer file "with the regional office," as the electronic filing portal (ePERB) does not require filling by region.

The proposed amendment also clarifies that the voter eligibility list is established by the Directed Election Order or approved Consent Election agreement, as supplemented by any further eligibility determinations. Because of this addition, the proposed amendment deletes "of the cutoff date for voter eligibility."

Another proposed amendment deletes the outdated requirement that the employer provide PERB with two sets of mailing labels for each eligible voter.

Lastly, a proposed amendment details the voter information that must be contained in the voter list for an electronic election, as the section already specifies the information to be provided for on–site and mailed ballot elections.

Section 81120 applies to elections under the Trial Court Act and concerns voter eligibility. The proposed amendment states voter eligibility is subject to the Directed Election Order or approved Consent Election Agreement.

Section 81130, subdivision (a) applies to elections under the Trial Court Act and concerns challenges to voter eligibility. The proposed amendment clarifies that an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A challenged ballot may be cast.

Subdivision (b) proposes to clarify that in all types of elections a Directed Election Order or approved Consent Election Agreement will contain procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition to set a deadline for filing challenges with PERB. For elections that do not include electronic ballots, challenges must be filed before the tally of ballots. For elections that include electronic ballots, the Directed Election Order or approved Consent Election Agreement specifies the deadline for filing challenges.

Section 81135, subdivision (a) applies to elections under the Trial Court Act and provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 81150, subdivision (a) applies to elections under the Trial Court Act and specifies the period in which objections may be filed. The proposed deletion removes the outdated reference to "with the regional office," as PERB's electronic filing portal does not require filing with the regional office. Also, the amendment corrects a grammatical error.

Section 81175 applies to elections under the Trial Court Act and provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 81180, subdivision (a) applies to elections under the Trial Court Act and specifies the period during which objections to the revised tally of ballots may be filed. The proposed deletion removes the outdated reference to "with the regional office," as PERB's electronic filing portal does not require filing with the regional office.

Section 91105, subdivision (b) applies to elections under the Court Interpreter Act and provides that if the Board engages a vendor to assist with an election, the Board will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 91110, subdivision (b) applies to elections under the Court Interpreter Act. In addition to serving a notice of election on the parties, the proposed amendment requires the Board to instruct the parties on posting and circulating the notice of election. Because of this addition, the section's last sentence is deleted.

Subdivision (c) requires the Board to supply the employer with sufficient copies of the notice for posting and specifies that the date by which the notice must be posted is contained in the Consent Election Agreement or the Directed Election Order. The proposed amendment clarifies that the Consent Election Agreement must be approved (as stated in proposed section 91101).

Section 91115, subdivision (a) applies to elections under the Court Interpreter Act and provides that the employer must file the voter eligibility list by a date established by the Board. The proposed amendment adds the alternative that the date can be established in an approved Consent Election Agreement. The proposed amendment also deletes the requirement that the employer file the eligibility list "with the regional office," as the electronic filing portal (ePERB) does not require filling by region.

The proposed amendment also clarifies that the eligibility list is established by the Directed Election Order or approved Consent Election agreement, as supplemented by any further eligibility determinations. Because of this addition, the proposed amendment deletes "of the cutoff date for voter eligibility."

Another proposed amendment deletes the outdated requirement that the employer provide PERB with two sets of mailing labels for each eligible voter.

Lastly, a proposed amendment details the information that must be contained in the voter list for an electronic election, as the section already specifies the information that must be included for on–site and mailed ballot elections.

Section 91120 applies to elections under the Court Interpreter Act and concerns voter eligibility. The proposed amendment states voter eligibility is subject to the Directed Election Order or approved Consent Election Agreement.

Section 91130, subdivision (a) applies to elections under the Court Interpreter Act and concerns challenges to voter eligibility. The proposed amendment clarifies that an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A challenged ballot may be cast.

Subdivision (b) proposes to clarify that in all types of elections a Directed Election Order or approved Consent Election Agreement will specify the procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition to set a deadline for filing challenges with PERB. For elections that do not include electronic ballots, challenges must be filed before the tally of ballots. For elections that include electronic ballots, the Directed Election Order or approved Consent Election Agreement sets the deadline for filing challenges.

Section 91135, subdivision (a) applies to elections under the Court Interpreter Act and provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 91150, subdivision (a) applies to elections under the Court Interpreter Act and specifies the period in which objections may be filed. The proposed deletion removes the outdated reference to "with the regional office," as PERB's electronic filing portal does not require filing with the regional office. Also, the proposal notes a grammatical correction.

Section 91175 applies to elections under the Court Interpreter Act and provides that a party can station an agent at the revised ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in–person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in–person or remotely to observe the announcement of the tally.

Section 91180, subdivision (a) applies to elections under the Court Interpreter Act and specifies the period during which objections to the revised tally of ballots may be filed. The proposed deletion removes the outdated reference to "with the regional office," as PERB's electronic filing portal does not require filing with the regional office.

CONSISTENT AND COMPATIBLE WITH EXISTING STATE REGULATIONS

The Board has determined that the proposed new regulations and amendments to existing regulations are not inconsistent or incompatible with existing regulations. After conducting a review of all regulations that would relate to or affect this area of California law, the Board has determined that, due to PERB's exclusive jurisdiction to implement and enforce the labor relations acts within its jurisdiction, the proposed regulations are the only regulations concerning the implementation and enforcement of these laws. Therefore, the Board has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The proposed regulations and amendments aim to increase the availability of electronic voting as an option to conduct representation elections and clarify the applicable procedures for both electronic and non–electronic elections. For certain employee groups, electronic voting is likely to increase voter turnout. Moreover, when Board agents are assigned representation matters that involve thousands of eligible voters, the costs to conduct the election and time spent by PERB staff are significant and can be reduced through electronic voting.

NO EXISTING AND COMPARABLE FEDERAL REGULATION OR STATUTE

During the process of developing these proposed regulatory adoptions and amendments, the Board has conducted a search for any similar federal regulations and statutes on this topic and has determined that there are no existing, comparable federal regulations or statutes or Board precedent, as these proposed regulatory changes apply solely to public employers and employee organizations under the jurisdiction of the California public sector labor relations statutes set forth above. Therefore, the Board has concluded that these regulations are neither inconsistent nor incompatible with existing Federal regulations or statutes.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: The proposed action would not impose any new mandate.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 et seq.: The proposed action would not impose any new costs which must be reimbursed.

Other non–discretionary cost or savings imposed upon local agencies: The proposed action would not result in any new costs which must be reimbursed, or savings imposed upon local agencies.

Cost or savings to state agency: The proposed action would not result in any new costs but would save PERB the high costs and significant personnel resources that mailed ballot and/or on–site elections incur for elections involving thousands of eligible voters.

Cost or savings in federal funding to the state: The proposed action would not result in any new costs or savings.

Cost impact on private persons or directly affected businesses: The agency 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: The proposed action will have no impact.

Significant effect on housing costs: There will be no effect on housing costs.

Business Reporting Requirement: The proposed action will not require a report to be made.

The Board has determined that the proposed regulations will not affect small business because the proposed regulations will only affect public employers, public employees, and public employee organizations.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board concludes that the adoption of the proposed regulations and amendments to existing regulations 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.

BENEFIT ANALYSIS

The proposed regulations and amendments aim to increase the availability of electronic voting as an option to conduct representation elections and clarify the applicable procedures for both electronic and non–electronic elections. For certain employee groups, electronic voting is likely to increase voter turnout. Moreover, when Board agents are assigned representation matters that involve thousands of eligible voters, the costs to conduct the election and time spent by PERB staff are significant and can be reduced through electronic voting.

The proposed regulations also ensure that when an electronic election is conducted, a Board agent will supervise all steps of the election. And the proposed regulations provide that a Directed Election Order or Consent Election Agreement shall address procedures for challenging voter eligibility in electronic elections, because such elections feature fundamental differences that typically require a different approach to challenges. If adopted, the proposed regulations and amended regulations will ensure procedural mechanisms for employee organizations, employees, or employers to utilize a new election method for representation elections and procedures for Board agents to follow on any type of election method being used. The general welfare of California residents will be benefitted by efficient processing of representation petitions that result in elections, which translates to continuous delivery of the essential services that California's public agencies and employees provide to California's communities.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Any questions or suggestions regarding the proposed action should be directed to:

James E. Coffey, Principal Attorney Supervisor
Public Employment Relations Board
Sacramento Regional Office
1031 18th Street
Sacramento, CA 95811
Email: james.coffey@perb.ca.gov

The backup person for these inquiries is:

Joseph W. Eckhart, Interim General Counsel
Public Employment Relations Board
San Francisco Regional Office

1515 Clay Street, Suite 802
Oakland, CA 94612

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based, to James E. Coffey at the above address.

PRELIMINARY ACTIVITIES

PERB held a public meeting on October 9, 2025, wherein the public was given the opportunity to provide comments regarding implementation of these electronic election regulations. On October 9, 2025, the Board itself approved the proposed regulatory text and the commencement of the formal rulemaking process.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF 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 California Regulatory Notice Register, the rulemaking file consists of this notice, the express terms of the proposed regulations and amended regulations, the initial statement of reasons, and documents relied on promulgating the rulemaking package. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative listed above. Copies of these documents may be obtained by contacting James E. Coffey at the above address, and the express terms of the proposed regulations and the initial statement of reasons are also available on the Board's website at www.perb.ca.gov/laws–and–regulations/rulemaking.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding a hearing, if one is requested, and considering all timely and relevant comments, the Board may adopt the proposed regulation and amended regulations substantially as described in this notice. If the Board makes modifications that are sufficiently related to the originally proposed text, the modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation and amendments to existing regulations as revised. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of James E. Coffey at the above address. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by contacting James E. Coffey at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this notice of proposed action, the initial statement of reasons, and the text of the proposed regulations and amendments to existing regulations in underline and strikeout can be accessed through PERB's website located at www.perb.ca.gov/laws–and–regulations/rulemaking throughout the rulemaking process. Written comments received during the written comment period will also be posted on PERB's website. The final statement of reasons or, if applicable, notice of a decision not to proceed will be posted on PERB's website following the Board's action.

TITLE 10. FILM COMMISSION

CALIFORNIA FILM AND TELEVISION TAX CREDIT PROGRAM 4.0

Notice is hereby given that the California Film Commission (CFC) proposes to adopt the regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The CFC proposes to adopt sections 5550, 5551, 5552, 5553, 5553.1, 5553.2, 5553.3, 5554, 5554.1, 5554.2, 5555, and 5556 in Article 5 of Chapter 7.75 of Title 10 of the California Code of Regulations in order to implement, interpret and make specific Revenue and Taxation Code sections 17053.98.1 and 23698.1 relating to a film and television tax credit program.

No public hearing is scheduled; however, any interested person or their duly authorized representative may request a public hearing no later than fifteen (15) days prior to the close of the public comment period.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Agency. Written comments will be accepted by the Agency through October 19, 2026. Submit comments to:

Name: Leah Medrano
Address: California Film Commission, 7080 Hollywood Boulevard, Hollywood, CA 90028
Email: Leah.Medrano@film.ca.gov

AUTHORITY AND REFERENCE

The proposed regulation will be adopted under the authority of Government Code section 11152, and Revenue and Taxation Code sections 17053.98.1(e)(1)(A), 17053.98.1(g)(3)(D)(ii)(I)(id), 23698.1(e)(1)(A) and 23 698.1(g)(3)(D)(ii)(I)(id). The proposed regulation implements, interprets, and makes specific Revenue and Taxation Code sections 17053.98.1 and 23698.1.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Film Commission (CFC) proposes to adopt new sections 5550, 5551, 5552, 5553, 5553.1, 5553.2, 5553.3, 5554, 5554.1, 5554.2, 5555, and 5556 in Article 5 of Chapter 7.75 of Title 10 of the California Code of Regulations. The regulations establish a procedure for allocating tax credits to qualified taxpayers in the motion picture industry.

Summary of Related Existing Laws and Regulations:

Existing law provides for two similar programs; the California Film and Television Program 4.0 (Program 4.0), allocating tax credits to qualified taxpayers in the motion picture industry until June 30, 2030, and the California Soundstage Filming Tax Credit Program (Soundstage Filming Program), allocating tax credits to qualified motion pictures produced in a certified studio construction project facility until June 30, 2032.

The provisions in the existing programs provide for applicants to file a written application for the allocation of the tax credit and for the CFC to establish criteria for allocating tax credits, determine and designate applicants who meet the requirements to apply for the tax credit, and issue the credit certificate to the qualified taxpayer upon completion of an eligible and approved qualified motion picture.

In 2026, the Legislature and Administration approved Assembly Bill 1138 (Chapter 56, Stat. 2026), which among other things, created a successor tax credit incentive program for film and television production in California. Specifically, the Legislature added sections 17053.98.1 and 23698.1 to the Revenue and Taxation Code, containing direction to the CFC to adopt regulations to implement the new California Film and Television Tax Credit Program 4.0 (Program 4.0). Program 4.0 continues California's tax credit program for motion picture production in the state, beginning July 1, 2026, and running through June 30, 2030.

Existing programs do not offer applicants the opportunity to elect to have their certified tax credits refunded at a ten percent (10%) fee over five years; SB 132 established this provision for Program 4.0. Existing programs do not contain requirements related to diversity, equity, inclusion, and accessibility (DEIA) to the same extent as Program 4.0; SB 132 expanded on DEIA provisions first instated in the Soundstage Filming Program to create an opportunity for more impactful DEIA practices and more robust CFC support for DEIA initiatives for Program 4.0 participants. Existing programs are not connected to the Safety on Productions Pilot Program established in the Labor Code through SB 132; SB 132 established a provision for Program 4.0 participants to participate in this first–of–its–kind set safety pilot.

Broad Objectives and Anticipated Benefits of the Proposed Regulations

These tax credit incentives will encourage production companies, regardless of distribution outlet, to film in California instead of other states, provinces, and countries offering incentives. The California Film and Television Tax Credit Program 4.0 is structured to encourage job creation and provides separate funding categories to ensure tax credits for multiple types of productions. The program provides for applicants to file a written application for the allocation of the tax credit and for the CFC to establish criteria for allocating tax credits, determine and designate applicants who meet the requirements to apply for the tax credit, and issue the credit certificate to the qualified taxpayer upon completion of an eligible and approved qualified motion picture. The California Film and Television Tax Credit Program 4.0 will help create jobs and benefit the economy by building on the success of California's previous and existing film and television tax credit programs, which have generated billions in production spending for the state.

Program 4.0 also seeks to increase diversity, equity, inclusion, and accessibility (DEIA) within the film and television production workforce via required submission of a DEIA best practice checklist for all applicants, as well as a DEIA workplan, interim assessment, and final assessment, for applicants opting in to the voluntary provisions.

Additionally, Program 4.0 extends both the Career Readiness and the Career Pathways Programs, which serve to build industry capacity and provide youth and early career professionals with access to industry training and jobs. The Career Pathways Program, funded by Program 4.0 applicants, specifically provides underserved communities with technical skills and soft skills training as well as established pathways into entry–level jobs in the motion picture industry.

The proposed regulations establish and clarify the specific processes necessary to implement the California Film and Television Tax Credit Program 4.0 in accordance with statute, enabling the state to operate the Program and realize its benefits.

Consistency And Compatibility with Existing State Regulations

During the process of developing these regulations, the CFC 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. The CFC has endeavored to ensure that these regulatory amendments comply with the non–duplication standard found in Title 1, California Code of Regulations. In some instances, the amended regulations duplicate California statute in part where the statute is cited as "authority" or "reference" for the proposed regulation and the duplication or overlap is necessary to satisfy the "clarity" standard of Government Code section 11349.1(a)(3).

DOCUMENTS INCORPORATED BY REFERENCE

The following forms are incorporated by reference in the proposed regulation:

1. Credit Allocation Letter, CFC Form D4 (January 1, 2027).
2. Diversity, Equity, Inclusion, and Accessibility Checklist, CFC Form DEIA1 (January 1, 2027).
3. Diversity, Equity, Inclusion, and Accessibility Workplan, CFC Form DEIA2 (January 1, 2027).
4. Diversity, Equity, Inclusion, and Accessibility Interim Assessment, CFC Form DEIA3 (January 1, 2027).
5. Diversity, Equity, Inclusion, and Accessibility Final Assessment, CFC Form DEIA4 (January 1, 2027).
6. Diversity, Equity, Inclusion, and Accessibility Statistics, CFC Form DEIA5 (January 1, 2027).
7. Career Pathways, CFC Form CPP4 (January 1, 2027).
8. Career Readiness, CFC Forms CR4–1, CR4–2, CR4–3, CR4–4 (January 1, 2027).
9. Animation Monthly Status Report, CFC Form A (January 1, 2027).
10. Local Community Expenditure Report, CFC Form LCER4 (January 1, 2027).
11. Agreed Upon Procedures, CFC Form AUP (January 1, 2027).
12. Tax Credit Certificate, CFC Form M4 (January 1, 2027).

ESTIMATES OF ECONOMIC IMPACT

The California Film Commission has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency 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.
- Significant effect on housing costs: None.
- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Potential cost impact on representative person or businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS

The California Film Commission has determined that the proposed regulations will not directly affect small businesses. The businesses that may elect to participate in the Programs and in such cases will be complying with these regulations are film production companies and are as such not small businesses, as defined in section 11342.610 of the Government Code. Small businesses in California may, however, provide goods and services to the businesses electing to comply with these regulations and thus benefit from the additional filming in California.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Pursuant to paragraph (2) of subdivision (e) of sections 17053.98.1 and 23698.1 of the Revenue and Taxation Code the CFC is not required to provide an economic impact analysis. Due to the nature of tax credit incentives in relation to economic impact, the CFC has been exempted from the economic impact analysis throughout the existence of the California Film and

Television Tax Credit Programs in all iterations; this exemption is consistent with previous practice.

REASONABLE
ALTERNATIVES CONSIDERED

The California Film Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed 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.

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

Name: Leah Medrano, Deputy Director
Email: Leah.Medrano@film.ca.gov
Phone Number: (323) 860–2960

The backup contact person for these inquiries is:

Name: Matthew Curran
Email: Matthew.Curran@film.ca.gov
Phone Number: (323) 860–2960

Questions on the substance of the proposed regulations may be directed to:

Name: Leah Medrano, Deputy Director
Email: Leah.Medrano@film.ca.gov
Phone Number: (323) 860–2960

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

After the close of the forty–five (45) day public comment period, the CFC may adopt the proposed regulation. As a result of public comments, either oral or written, that are received by the CFC regarding this proposal, the CFC may determine that changes to the proposed regulation are appropriate. If the CFC 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 for at least 15 days before the CFC adopts the regulations as revised. The CFC will provide notification of any such modifications to all persons whose comments were received during the public comment period, all persons whose comments (written or oral) were received at the public hearing (if one is held) and all persons who requested notice of such modifications. Otherwise, please send requests for copies of any modified regulations to the attention of Leah Medrano at the above email address. The CFC will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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

The CFC has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the California Film Commission, 7080 Hollywood Boulevard, Suite 900, Hollywood, California during normal business working hours (8 a.m.–5 p.m.). Please contact Leah Medrano at the above email address to arrange a date and time to inspect the files. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons and the proposed text of the regulations. Copies of these items are available, upon request, from the Contact Person designated in this Notice.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

The CFC is required to prepare a Final Statement of Reasons. Once the CFC has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy. Requests for copies should be addressed to the Contact Person identified in this Notice.

OFFICE INTERNET WEBSITE

The Office maintains an Internet website for the electronic publication and distribution of written material. Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations can be accessed through our website at: www.film.ca.gov.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

MILESTONE COMPLETION
CREDIT SCHEDULE

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or the department), proposes to amend section 3043.3 of the California Code of Regulations (CCR), Title 15, Division 3, Chapter 1, regarding the Milestone Completion Credit Schedule.

PUBLIC COMMENT PERIOD

The public comment period begins **September 4, 2026** and closes on **October 20, 2026.** Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, contact the program contact person listed below.

CONTACT PERSONS

Primary Contact

Josh Jugum
Telephone: (279) 223–2317
Regulation and Policy Management Branch
P.O. Box 942883
Sacramento, CA 94283–0001

Back–Up

Y. Sun
Telephone: (279) 223–2316
Regulation and Policy Management Branch
P.O. Box 942883
Sacramento, CA 94283–0001

Program Contact

I. Coladonato
Telephone: (916) 431–4450
Division of Rehabilitative Programs
P.O. Box 942883
Sacramento, CA 94283–0001

PUBLIC HEARING

Date and Time:

October 20, 2026 — 10:00 a.m. to 11:00 a.m.

Place:

8260 Longleaf Drive, Building C, first floor, Room 105 Elk Grove, CA 95758

AUTHORITY AND REFERENCE

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

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons.

Additional provisions of law cited in the amended CCR sections: Cal. Const., article I, Section 32(b); and Sections 5054 and 5058, Penal Code. Cal. Const., article I, Section 32(a)(2); and Section 2933.05, Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In 2009, legislation amended Penal Code (PC) section 2933 and created new PC section 2933.05. PC section 2933.05 allowed the department to award eligible incarcerated persons Milestone Completion Credits (MCC) for completion of approved rehabilitative programs to reduce their terms of confinement. In 2010, the Milestone Completion Credit Schedule (MCCS) was created to establish specific programs and credit allotments available to incarcerated persons. Each program is divided into milestones (components), for which credit will be awarded.

The Public Safety and Rehabilitation Act (Proposition 57) was approved by California voters in 2016. This proposition amended the California Constitution to establish that CDCR shall have authority to award credits earned for approved rehabilitative or educational achievements.

This action will:

- Update the Milestone Completion Credit Schedule to account for various additions, revisions, and deletions to the rehabilitative, educational, and other programs available to incarcerated persons and the amount of credit that may be earned upon successful completion.

DOCUMENTS INCORPORATED BY REFERENCE

Milestone Completion Credit Schedule (Rev. 01/27)

Justification for incorporating forms by reference: the department uses over 1,500 forms, many of which are regulatory. It would be unduly cumbersome, expensive and impractical to print all these forms in the CCR text, therefore the department has always incorporated forms by reference, except in specific circumstances which do not apply in the case of these regulations.

The adopted, amended, and/or repealed forms included in this rulemaking action are available to the public for review and are included in the notice of rulemaking sent to all parties who have requested notification

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The department anticipates that these regulations will help to reduce recidivism and, eventually, prison overcrowding, by providing rehabilitation and vocational skills, thus helping to better prepare incarcerated persons to find employment upon their release from California prisons.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING REGULATIONS

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

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None.*
- Cost to any local agency or school district that is required to be reimbursed 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.*

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

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

EFFECT ON SMALL BUSINESSES

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

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that the proposed regulation will not have any impact on the following:

- Creation or elimination of jobs within California.
- Creation of new businesses or elimination of existing businesses within California.
- Expansion of businesses currently doing business with the state.
- The state's environment.
- Worker safety.

The department has determined that the proposed regulations do not impact the health and welfare of California residents. However, the regulations may benefit incarcerated persons by improving their employment opportunities upon release from prison to the community.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES

IMMEDIATE NEED REGULATIONS PACKAGE

The California Department of Social Services (CDSS) hereby gives notice of the proposed regulatory action(s) described below. A public hearing regarding this proposal is not currently scheduled. No later than 15 days prior to the close of the public comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be sent to:

California Department of Social Services
Office of Regulations Development
744 P Street, MS 8–4–192
Sacramento, CA 95814
Telephone: (916) 657–2586
Email: ord@dss.ca.gov

Statements or arguments relating to the proposals may be submitted in writing or email to the address/number listed above. All comments must be received by **10/20/26**.

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

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

CHAPTERS

California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP), Eligibility and Assistance Standards Manual, Sections 40–129 Immediate Need in CalWORKs.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Immediate Need assistance benefit is an advance cash payment to eligible CalWORKs applicants who are experiencing an emergency situation and have insufficient funds to meet their basic needs. If determined eligible for Immediate Need assistance, CalWORKs applicants can receive a cash payment of up to $200 while waiting for approval of their cash aid application.

The proposed changes to the Immediate Need regulations remove the condition of providing medical verification of pregnancy for CalWORKs applicants with no eligible children to be considered apparently eligible for Immediate Need. This change is a result of Senate Bill (SB) 187 (Chapter 50, Statutes of 2022), effective July 1, 2022. These changes also replace the term "alien" with "noncitizen" as mandated by Assembly Bill (AB) 1096 (Chapter 296, Statutes of 2021). The proposed amendments also include regulatory cleanup that provide clarity and update outdated references.

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 proposed regulations will benefit the health and welfare of CalWORKs applicants by presenting a positive step toward flexibility, inclusivity, and equity. The provisions of SB 187 offer increased flexibility for pregnant CalWORKs applicants with no eligible children by removing the condition of providing medical verification of their pregnancy to be considered apparently eligible for Immediate Need, thus expanding apparent eligibility and allowing vulnerable pregnant CalWORKs applicants to receive the assistance they need for emergency situations. Furthermore, replacing gender–specific pronouns with gender–neutral terms creates an environment that respects and acknowledges diverse identities, thus promoting inclusivity and equity. Similarly, AB 1096 removes the dehumanizing and exclusionary term "alien(s)" when referring to noncitizen immigrants in existing law, which carries negative connotations and is considered stigmatizing, and replaces it with more respectful and human–centered term of "noncitizen." There are no additional benefits for worker safety or the state's environment since the regulations only impact CalWORKs applicants.

The CDSS conducted a review of existing regulations and evaluated the proposed regulations for any inconsistency or incompatibility. The Department found that these are the only regulations concerning Immediate Need in CalWORKs. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations but do fulfill the intent of the Legislature in enacting AB 1096 and SB 187.

COST ESTIMATE

1. Costs or Savings to State Agencies: **No fiscal impact as a result of these regulations.**
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500–17630: **No fiscal impact as a result of these regulations.**
3. Nondiscretionary Costs or Savings to Local Agencies: **No fiscal impact as a result of these regulations.**
4. Federal Funding to State Agencies: **No fiscal impact as a result of these regulations.**

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state–mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code. Any and all costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the proposed regulatory changes, which was designed to impact only the regulations affecting individuals applying for CalWORKs benefits.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined there is no impact on small businesses as a result of filing these regulations 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 creating or expanding businesses in the State of California. 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 amended regulations expand the apparent eligibility requirement for Immediate Need for pregnant applicants with no eligible children by removing the condition of providing medical verification of pregnancy. This allows pregnant applicants in emergency situations to receive immediate critical support, such as when there is a risk to health and safety due to homelessness, domestic violence, or inadequate access to food. Additionally, the proposed cleanup amendments promote inclusivity and respect by replacing gender–specific pronouns with gender–neutral terms, and removing the use of the derogatory term "aliens," as mandated by AB 1096, and replacing it with appropriate terms such as "noncitizen." There are no additional benefits for worker safety or the state's environment, as the regulations only affect individuals applying for the CalWORKs program.

STATEMENT OF EFFECT ON HOUSING COSTS

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

STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of CDSS, 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.

AUTHORITY AND REFERENCE CITATIONS

The Department amends these regulations under the authority granted in Senate Bill 187 (Chapter 50, statues of 2022) and Assembly Bill 1096 (Chapter 296, statues of 2021)

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

Tyler Penn: (916) 204–0337
Oliver Chu: (916) 307–0350

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NUMBER 1653–2026–192–001–R2

Project: Labbe Meadow Restoration Project

Location: Plumas County

Applicant: MTN Consulting and restoration LLC, as represented by Noah Abramson

Background

Project Location: The Labbe Meadow Restoration Project (Project) is located at 2571 Quincy Junction Road, Quincy, CA 95971, and affects an unnamed wetland that is a tributary to the North Fork of the Feather River. The unnamed wetland supports populations of native fish and wildlife species, including populations of greater sandhill crane (*Antigone canadensis tabida*).

Project Description: Noah Abramson (Applicant) proposes to enhance or restore habitat within the unnamed wetland located on Labbe Ranch to provide a net conservation benefit for fish and wildlife, including greater sandhill crane. The Project will improve meadow hydrologic function and increase meadow habitat complexity through the creation of a series of open water ponds within a historic ditch feature on the Labbe Ranch. A series of earthen plugs and corresponding ponds will be constructed throughout the ditch feature where the channel is most defined. Plugs will have the added benefit of increasing the vertical and lateral connectivity of the ditch surface flow path with the meadow surface to the northeast, reducing surface flow conveyance of the ditch, and increasing flow into and across the meadow, promoting groundwater recharge in the meadow.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.31 acres and 289.2 linear feet. The proposed Project complies with the State Water Resources Control Board General 401 Water Quality Certification Order for Small

Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) soil from earthen movement and plug creation, (2) native vegetation placed on earthen plugs, and (3) jute fabric used as erosion control material.

Project Timeframes: Start date: August 1, 2026
Completion date: July 30, 2031
Work window: August 1–October 31

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, the Central Valley Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (General Order) (Waste Discharge Identification [WDID] Number 5A32CR00265). The NOA describes the Project and requires the Applicant to comply with terms of the General Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to native fish, wildlife and plant species.

Receiving Water: North Fork, Feather River.
Filled or Excavated Area: Permanent area impacted: 0.24 acres
Temporary area impacted: 0.07 acres
Length temporarily impacted: 30.5 linear feet
Length permanently impacted: 258.7 linear feet
Dredge Volume: None.
Project Location: Latitude 39.963299 and Longitude –120.907997.

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

On July 30, 2026, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on July 31, 2026, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z–2026–0731–01) on August 14, 2026. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

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

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

Avoidance and Minimization Measures

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Construction–period Water Quality Protection and Erosion and Sedimentation Control Measures; (2) Post–construction and Sediment Control and Water Quality Protection Requirements; (3) General Program Conditions for Vegetation Management; and (4) General Measures to Avoid Impacts on Biological Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI.

Monitoring and Reporting

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

Notice of Completion

Coverage under the General Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the Project has been completed. A complete NOC includes at a minimum:

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

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Applicant shall include the Project name and WDID number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. All documents shall be submitted electronically to zachary.kearns@wildlife.ca.gov, cc: R2CESA@wildlife.ca.gov.

Project Authorization

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

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

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NUMBER 1653–2026–191–001–R3

Project: Portola Redwoods Fish Passage and Habitat Enhancement Project, Phase 1

Location: San Mateo County

Applicant: Colleen McNally–Murphy, San Mateo Resource Conservation District

Background

Project Location: The Portola Redwoods Fish Passage and Habitat Enhancement Project, Phase 1 (Project) is located within Portola Redwoods State Park owned and operated by California Department of Parks and Recreation. The Project is located along Peters Creek and Evans Creek, in San Mateo County, Assessor Parcel Number (APN) 085080020, latitude 37.26079, longitude –122.21425. Peters Creek and Evans Creek are tributaries to Pescadero Creek and support populations of Central California Coast (CCC) Evolutionarily Significant Unit (ESU) coho salmon (*Oncorhynchus kisutch*), CCC Distinct Population Segment (DPS) steelhead (*Oncorhynchus mykiss*), Pacific lamprey (*Lampetra tridentata*), and California giant salamander (*Dicamptodon ensatus*).

Project Description: San Mateo Resource Conservation District (Applicant) proposes to enhance or restore habitat within Peters Creek and Evans Creek to provide a net conservation benefit for CCC coho salmon and CCC steelhead. The Project includes the removal of an existing concrete dam and logjam that are preventing fish passage to Peters Creek and reducing the ability for fish passage in Evans Creek. Removal of these barriers will restore access to a combined 6.3 miles of critical salmonid habitat within the Pescadero Creek watershed.

To remove the concrete dam, the site will be isolated with blocknets and aquatic species will be relocated. After fish relocation and installation of a downstream silt curtain, the dam will be detonated with explosives. After detonation, larger fragments of concrete will be broken down and non–concrete material will be removed from the site. The logjam will be removed using both heavy equipment and hand tools. Prior to removing the logjam, the site will be isolated with blocknets and if necessary, aquatic species may be relocated. Wood removed from the logjam will be distributed downstream to allow existing wood to naturally move and aggregate downstream. To provide additional habitat for native aquatic species, up to 26 trees will be felled directly or pulled into the streams, resulting in enhanced instream habitat complexity, and promotion of the distribution, trapping, and sorting of sediment.

Project Size: The total area of ground disturbance associated with the Project is approximately 1.05 acres and 448 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) Large wood consisting of 26 key tress and up to five smaller trees, approximately 643 cubic yards (cy); (2) 44 cy of rubblized 100+ year old concrete; (3) 1,000 cy of native sediment post–dam removal; (4) 2,000 cy of native sediment post–logjam removal; and (5) 150 cy of wood dispersed from logjam removal.

Project Timeframes: Start date: September 2026

Completion date: October 2028

Work window: September 16–October 31

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage to 6.3 miles of critical salmonid habitat, the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 2 CW465035, RM # 465035, and Place ID # 906542 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to reptiles, amphibians, fish, and marbled murrelet (*Brachyramphus marmoratus*).

Receiving Water: Peters Creek and Evans Creek, tributaries to Pescadero Creek
Filled or Excavated Area: Permanent area impacted: 0.17 acres maximum
Temporary area impacted: 0.88 acres maximum
Length temporarily impacted: 350 linear feet
Length permanently impacted: 98 linear feet

Dredge Volume: None.

Discharge Volume: Large wood consisting of 26 key trees and up to five smaller trees, approximately 643 cubic yards (cy); 44 cy of rubblized 100+ year old concrete; 1,000 cy of native sediment post–dam removal; 2,000 cy of native sediment post–log jam removal; and 150 cy of wood dispersed from logjam removal.

Project Location: Latitude 37.26079 and Longitude –122.21425, (NAD 83); APN: 085080020.

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

On July 28, 2026, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on July 30, 2026, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z–2026–0730–03) on August 14, 2026. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

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

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

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) General Administration; (2) Construction Windows/Time Restrictions; (3) Preconstruction Surveys; (4) Qualified Biologist/Construction Monitoring; (5) Environmental Awareness Training; (6) Invasive Species/Contamination Prevention; (7) Construction Requirements; (8) In–Water Work Requirements; (9) Fish Relocation/Dewatering/Diversion Requirements; (10) Erosion and Sediment Control Requirements; (11) Vegetation Avoidance/Minimization and Revegetation Requirements; (12) Species Specific Measures; (13) Additional Measures; (14) Other Biological Resource Measures; and (15) Cultural Resource Protection. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Appendix F — AMM's*.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Portola Redwoods State Park Fish Passage and Habitat Enhancement Project, Phase 1 — Monitoring & Reporting Strategy*, prepared by San Mateo Resource Conservation District, dated July 22, 2026.

Notice of Completion

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

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

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

Project Authorization

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

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

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING AND BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Pursuant to Government Code section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board ("Board") of the State of California has set the time and place for a Public Meeting and Business Meeting:

On **September 17, 2026**, at 10:00 a.m.
Town of Truckee
Truckee Town Hall
10183 Truckee Airport Road
Truckee, California 96161

QR Code for Access:

as well as via the following:

- Videoconference at https://tkoworks.zoom.us/j/87501250331.
- Teleconference at (669) 444–9171 (Webinar ID 875 0125 0331).
- Live video stream and audio stream (English and Spanish) at: https://videobookcase.com/california/oshsb/.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Board should contact the Disability Accommodation Coordinator at (916) 274–5721 or the state–wide Disability Accommodation Coordinator at 1 (866) 326–1616 (toll free). The state–wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1 (800) 735–2929 (TTY) or 1 (800) 855–3000 (TTY–Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer–Aided Transcription System or Communication Access Realtime Translation (CART), a sign–language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

RULEMAKING PETITION DECISIONS

AIR RESOURCES BOARD

REGARDING PETITION FROM MR. WOCKNER CONCERNING DAMS AND RESERVOIRS

Sent via Email

August 21, 2026

Gary Wockner

Tell The Dam Truth

35 West Main Street, Suite B, #375

Ventura, CA 93001

info@tellthedamtruth.com

Re: Petition for Rulemaking to Add Dams and Reservoirs as Reporting Entities Under the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

Dear Mr. Wockner,

Thank you for submitting a petition for rulemaking ("Petition") on behalf of Tell the Dam Truth (TTDT), Patagonia, Friends of the River (FOR), Rios to Rivers, Save The World's Rivers, California Trout (CalTrout), Ridges to Riffles, and the Center for Biological Diversity (the Center) on March 25, 2026, to the California Air Resources Board (CARB or Board). CARB acknowledged receipt of the Petition on March 26, 2026. We appreciate that petitioners agreed to extend the deadline for response to the Petition to August 23, 2026.

Petitioners requested that CARB initiate a rulemaking and other appropriate actions to repeal existing language exempting hydropower facilities from CARB's Mandatory Greenhouse Gas Reporting Regulation (MRR) reporting requirements (California Code of Regulations title 17, section 95101(f)(1)), and require reporting of greenhouse gas (GHG) emissions from dam and reservoir systems that generate electricity or supply water used in California.

The Petition notes that CARB is California's state agency "charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases."[1] As mentioned in the Petition, the Legislature, through Assembly Bill (AB) 32[2] and subsequent legislation, tasked CARB with adopting regulations requiring the reporting and verification of GHG emissions from sources that contribute most to state emissions.[3] CARB is committed to carrying out these responsibilities and staying at the forefront of the fight against climate change. We thank petitioners for their ideas on tracking GHG emissions from dams and reservoirs and would like to build upon this dialogue moving forward.

I. *Summary of Decision and Rationale*

CARB denies the Petition to initiate a rulemaking to add dams and reservoirs as reporting entities under the MRR.[4] As an alternative solution to the action requested by the petitioners, CARB intends to work to resolve the petitioners' concerns over accounting for GHG emissions from dams and reservoirs in California's inventories, starting by:

- taking appropriate actions to incorporate greenhouse gas (GHG) accounting for dams and reservoir systems within CARB's Natural and Working Lands (NWL) Carbon Inventory;
- taking initial steps to report dams and reservoir system emissions as Flooded Lands within the wetlands category (3B4) of the Intergovernmental Panel on Climate Change (IPCC) standardized GHG accounting framework;
- reviewing existing research and identifying need for future research to support direct measurement of emissions from dams; and,
- convening a meeting to discuss hydropower–related GHG accounting and inviting other state partner agencies to participate in that meeting.

The following summarizes CARB's rationale for this determination:

- The Regulation for MRR is not suitable to account for emissions from dams and reservoirs due, in part, to its design and measurement accuracy requirements. Future research and technological progress towards direct, regular measurement of dam and reservoir system emissions may allow for more rigorous accounting.
- Insufficient evidence exists that dam and reservoir emissions are a significant source of GHG emissions for the purposes of MRR. The most recent, rigorous studies using models to estimate dam and reservoir emissions document great un-

[1] Petition at page 7, available at *https://ww2.arb.ca.gov/resources/documents/2026–dam–and–reservoir–petition*; See also Health & Safety Code, § 38510.

[2] Health & Safety Code, § 38500 et seq. (Nunez, Stats. 2006, chapter 488).

[3] Health & Safety Code, § 38530(b)(1).

[4] A state agency may grant or deny the petition in part, and may grant any other relief or take any other action as it may determine to be warranted by the petition and shall notify the petitioner in writing of this action. Gov. Code, § 11340.7(c).

certainty regarding overall levels of emissions due to numerous variables which are difficult to account for. Further scientific research estimating the size of California dam and reservoir system emissions with greater accuracy, completeness, and confidence may provide necessary clarity regarding this threshold issue.

- The NWL Carbon Inventory is designed to report on code 3B, which includes dams and reservoirs (3B4) within the IPCC standardized GHG accounting framework. The NWL Carbon Inventory is logically the best fit among CARB's programs for counting emissions from dam and reservoir systems in California.

- The NWL Carbon Inventory uses the most comprehensive and up–to–date information possible to produce the most accurate accounting possible to inform CARB policy and broader state climate goals, including the AB 1279[5] 2045 carbon neutrality goal. Incorporating dams and reservoirs into future NWL Carbon Inventory updates will help to address the petitioner's goals associated with accounting for emissions from dams and reservoirs.

As described in this response, due to scientific uncertainties, as well as technical, economic, and logistical challenges, CARB is not initiating the requested rulemaking. However, CARB is committed to further dialogue and further study of emissions from dams and reservoirs.

II. *Background on AB 32 and the MRR*

California is a global leader in developing and implementing actions to mitigate climate change by regulating, incentivizing, and otherwise encouraging actions to reduce GHG emissions. Partners around the world look to California as a model for decarbonization across all economic sectors. Cost–effectively reducing GHG emissions in California not only benefits the State's residents and economy but also supports and encourages other jurisdictions to take similar action to mitigate human–induced climate change. The latest report on climate change from the IPCC shows the world is not doing enough to avoid the worst climate impacts.[6] It is essential that California continue to strengthen its climate mitigation efforts, including by continually researching and better understanding sources of GHG in California and how to measure and reduce them. CARB is the State agency tasked with designing emissions reduction measures to meet California's GHG emissions targets.[7]

A. *Global Warming Solutions Act of 2006 (AB 32)*

AB 32 requires California to cut GHG emissions to 1990 levels by 2020, to continue and maintain reductions beyond 2020, and to develop a comprehensive strategy to reduce dependence on fossil fuels, stimulate investment in clean and efficient technologies, and improve air quality and public health. AB 32 also requires CARB to adopt regulations for the mandatory reporting of GHG emissions in order to monitor and enforce compliance with CARB's GHG emissions reduction actions, including market–based compliance mechanisms. Specifically, AB 32 directs CARB to adopt regulations that, among other things, "[r]equire the monitoring and annual reporting of greenhouse gas emissions from greenhouse gas emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions."[8] GHG sources are defined as "any source, or category of sources, of greenhouse gas emissions whose emissions are at a level of significance, as determined by the state board, that its participation in the program established under this division will enable the state board to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions limit."[9] CARB's regulations must also "[e]nsure rigorous and consistent accounting of emissions . . . ."[10]

In 2016, the Legislature passed and Governor Brown approved SB 32,[11] which mandates a 40 percent reduction of statewide GHG emissions below 1990 levels by 2030. In 2022, the Legislature passed and Governor Newsom approved AB 1279, which sets statewide goals of achieving carbon neutrality and reducing GHG emissions by 85 percent by 2045.

B. *Mandatory Greenhouse Gas Reporting Regulation (MRR)*

The purpose of MRR is to establish GHG reporting and verification requirements for operators of certain facilities that directly emit GHGs, suppliers of certain fuels and carbon dioxide, electric power entities, and verifiers of GHG emissions data reports.[12] Of all source categories that are currently regulated under

[5] Health & Safety Code, § 38562.2 (Muratsuchi, Stats. 2022, chapter 337).

[6] CARB. 2022. 2022 Scoping Plan for Achieving Carbon Neutrality, available at https://ww2.arb.ca.gov/sites/default/files/2022–12/2022–sp.pdf; IPPC. 2022. Climate Change 2022: Mitigation of Climate Change, available at https://www.ipcc.ch/report/sixth–assessment–report–working–group–3/.

[7] Health & Safety Code, § 38501(h).

[8] Health & Safety Code, § 38530(b)(1).

[9] Health & Safety Code, § 38505(i).

[10] Health & Safety Code, § 38530(b)(4).

[11] Health & Safety Code, § 38566 (Pavley, Stats. 2016, chapter 249).

[12] Cal. Code Regs., title 17, § 95101.

MRR, the total per–category GHG emissions range from approximately 8 million Metric Tons of CO2e (MMCO2e), to approximately 160 MMTCO2e (See Figure 1).

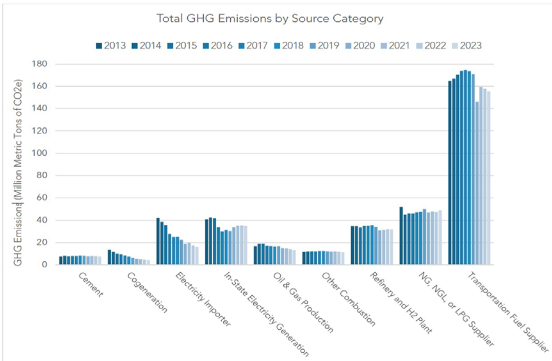

Figure 1 — 2013–2023 Total GHG Emissions by Source Category.[13]

CARB adopted the MRR in December 2007. The MRR has been amended several times. In December 2010, CARB adopted amendments to harmonize MRR with requirements then in effect for GHG reporting by the U.S. Environmental Protection Agency (U.S. EPA), to support California's Cap–and–Trade Regulation (now known as Cap–and–Invest), and to ensure consistency with the reporting structure that several jurisdictions developed through the Western Climate Initiative. In September 2012, CARB adopted amendments to MRR in order to continue harmonization with U.S. EPA requirements, as well as add conforming definitions to the Cap–and–Invest Regulation and the Cost of Implementation Fee Regulation (COI).

In September 2013, CARB adopted amendments to clarify the reporting requirements, support the Cap–and–Invest Regulation, and other updates. In September 2014, CARB adopted amendments to further clarify the reporting requirements, integrate the COI reporting requirements, and collect additional information to support CARB's various climate change programs, such as the statewide GHG emissions inventory. In July 2017, CARB adopted amendments to support the Cap–and–Invest Regulation and harmonize with the U.S. EPA Clean Power Plan reporting and U.S. EPA rule amendments. CARB adopted amendments in December 2018 to support the Cap–and–Invest Regulation to ensure consistency with the calculation of compliance obligations and to ensure that reported GHG emissions and product data are accurate and complete to support California's GHG reduction programs, including imported electricity emissions from the CAISO Energy Imbalance Market (EIM).

More recently, in May 2026, CARB adopted amendments to align with and support California's Cap–and–Invest Regulation, including allocation and the calculation of compliance obligations, and to ensure that reported GHG emissions and product data are accurate and complete to support California's GHG emissions reduction programs, including the statewide GHG emissions inventory.

III. *Scientific Overview of Dam and Reservoir System GHG Emissions*

CARB conducted a review of the current state of the science of quantifying and estimating GHG emissions from dam and reservoir systems. This review revealed nuanced but important constraints of current approaches to estimating dam and reservoir system emissions.

GHG emissions from within a reservoir are driven primarily by the aerobic and anaerobic decomposition of organic material. The rate and magnitude of emissions can be affected by the reservoir's size, climate, nutrient and trophic status, and operations. Various methods exist to quantify and scale up field local measurements (known as "upscaling") of GHG emissions from reservoirs; however, the spatial and temporal variability of emissions both within and across reservoirs makes quantification and upscaling a challenging task. Further research and development would be needed to increase the accuracy and quantify the uncertainty of GHG emission estimates from these highly dynamic systems at statewide and regional scales. Estimating these emissions is further complicated by the challenges of distinguishing emissions caused by dams and reservoirs from natural carbon cycling within these systems.

A. *CO_2 and CH_4 Emissions from Dams and Reservoirs*

In order to respond to petitioners' request, CARB staff conducted a high–level literature and scientific review of GHG emissions from reservoir systems to better understand the measurement and estimation approaches and uncertainties. The following paragraphs summarize CARB staff's initial evaluation.

Within reservoir systems, GHG emissions are produced primarily from the decomposition of organic material. This organic material may come from lacustrine vegetation within the reservoir, terrestrial vegetation neighboring the reservoir, or upstream water sources. As the organic matter decomposes, some of it is released as carbon dioxide (CO_2). CO_2 emissions associated with dams and reservoirs are primarily produced under aerobic conditions. Methane (CH_4), in contrast, is produced through anaerobic decomposition of organic matter under oxygen–depleted conditions. As GHGs are produced, they may be released from the reservoir surface via diffusion (which oc-

[13] CARB. 2024. Mandatory Greenhouse Gas Reporting 2023 Emissions Year Frequently Asked Questions, https://ww2.arb.ca.gov/sites/default/files/classic/cc/reporting/ghg–rep/reported–data/2023mrrfaqs.pdf.

curs when concentrations in the water exceed that of the atmosphere), ebullition (which occurs when bubbles rise from the sediment), or plant–mediated transport (which occurs when aquatic plants draw up gases through their aerenchyma). GHGs can also be released downstream of reservoirs via diffusion and degassing (i.e., escape into the atmosphere) as water moves into a river channel or through turbines (Figure 2).

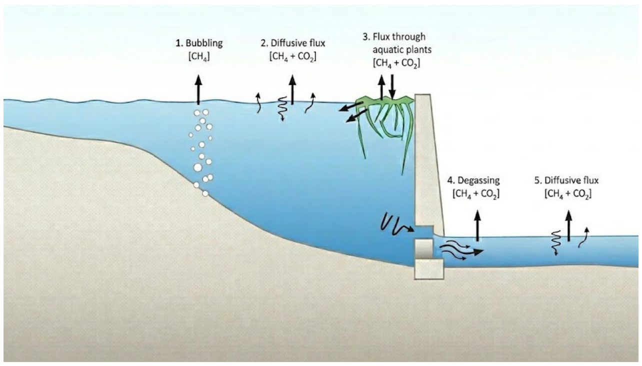

Figure 2 — An illustration of major CO_2 and CH_4 emission pathways in reservoirs. Bubbling = ebullition.

Both within and among reservoirs, the spatial and temporal variability in GHG emissions is substantial (IPCC 2019; Hansen et al. 2023). Within a reservoir, surface emissions have been shown to be sensitive to sediment depth, temperature, seasonal vertical mixing, water drawdown, and the presence of algal blooms, among other factors (Eugster et al. 2011; Maeck et al. 2013; Harrison et al. 2017; Waldo et al. 2021; Jager et al. 2023). In addition to these drivers, the often–dominant process of ebullition inherently adds significant temporal variability to GHG emissions of a reservoir (Beaulieu et al. 2020; Hansen et al. 2023). Across reservoirs, surface emissions have been shown to vary with factors such as reservoir size, climate, nutrient availability, trophic status, and water management (Soumis et al. 2004; Deemer and Holgersen 2021; Jager et al. 2023). The structure of the dam can further influence the amount of CH_4 emitted via degassing, with deeper water carrying more CH_4 with it (Delwich et al. 2022).

B. *How Emissions are Empirically Tracked and Measured*

Emissions from dam and reservoir systems include reservoir surface emissions, degassing emissions, and downstream emissions. Approaches for measuring each type of emission are described below. A variety of methods exist for aggregating and scaling the several types of dam and reservoir system emissions.

1. Reservoir Surface Emissions

Fluxes of CO_2 and CH_4 associated with reservoirs can be measured using a suite of approaches that vary in their ability to capture spatial and temporal fluctuations, as well as their degree of automation.

The most widely used approaches for measuring reservoir fluxes rely on direct field sampling at discrete points in space and time. For example, rates of CO_2 and CH_4 exchange between reservoir surfaces and the atmosphere are commonly quantified using floating chambers (Seth et al. 2026). This method measures changes in the headspace concentration of CO_2 and CH_4 within a chamber floating on the water surface over a set time period. By measuring total flux within the chamber footprint, it captures the process of diffusion as well as the influence of any bubbles that enter the chamber during deployment. If desired, ebullition can be quantified independently from diffusion by using a submerged, inverted funnel that traps bubbles and delivers the gas to a collection chamber. Diffusive fluxes can also be estimated by comparing CO_2 and CH_4 concentrations measured within the water column with gas concentrations in the atmosphere (using a boundary layer model; Seth et al. 2026). In their traditional form, these methods require manual sampling at regular intervals over a set period of time and are unable to provide long–term, frequent measurements at a high spatial density. As such, they often miss episodic events and fail to capture the large variability in emissions that occur.

Advances in monitoring capabilities have sought to broaden the ability to quantify spatial and temporal trends in GHG fluxes from reservoirs. For instance, researchers have developed automated chamber methods for both CO_2 (Martinsen et al. 2018) and CH_4 (Dietrich et al. 2025) to support longer–term measurements with less manual effort. Dietrich et al. (2025) specifically demonstrated the ability for an automated chamber to collect sub–hourly flux measurements over months without supervision. Other advances have helped improve estimates from specific surface emission pathways. For example, hydroacoustic surveys have been used to detect rising bubbles along survey routes and thus improve estimates of ebullition across a reservoir surface (Maeck et al. 2013; Linkhorst et al. 2021). However, because these surveys are conducted over limited time periods, they may still miss key temporal dynamics associated with this highly variable process. Automated bubble traps, paired with manual bubble gas measurements, have been used to resolve temporal uncertainty in CH_4 ebullition estimates by recording bubble production at fixed locations over time (Varadharajan et al. 2010; Delwiche and Hemond 2017).

In addition to the above advances, researchers have begun trialing a more automated, integrated, and continuous measurement approach in freshwater systems, including reservoirs. This approach relies on the use of eddy covariance flux towers, which measure the net exchange of CO_2 and CH_4 between the atmosphere and the reservoir surface within the tower's upwind flux footprint. While this approach is widely used in terrestrial landscapes, its application to reservoirs and other freshwater bodies on annual timescales is still emerging (Golub et al. 2023; Seth et al. 2026). Flux towers offer an opportunity to measure GHG fluxes continuously over larger areas than chamber–based methods, but the measurements still represent only the portion of the reservoir surface captured within the tower footprint, which can vary with wind direction, atmospheric conditions, and tower placement (Eugster et al. 2011). As a result, eddy covariance can greatly improve temporal resolution, but a single tower is still unlikely to capture the full spatial variability of emissions, especially across larger reservoirs. Additionally, typical eddy covariance systems depend on stationary platforms, requiring placement along the shoreline or on grounded infrastructure. While the use of floating platforms is being explored (Uwe et al. 2020), this limitation creates interference from nearby vegetation or emission sources and prevents sampling in the central reservoir surface.

Satellite–based remote sensing of CO_2 and CH_4 emissions offers another option for measurements, although this approach also has limitations. Indeed, there are numerous existing and planned satellite missions for CO_2 and CH_4 detection (Karambelkar et al. 2025; Seth et al. 2026), and as technologies continue to evolve, they could prove useful in helping to broaden spatial and temporal measurement coverage. However, the utility of satellite observations depends strongly on whether the instrument's detection limit, spatial resolution, and sampling design match the scale and intensity of the emission source itself, and their suitability for capturing reservoir emissions remains to be robustly evaluated. In addition, because satellites measure atmospheric concentrations rather than surface fluxes directly, emission estimates still rely on complex atmospheric modeling and require calibration and validation using field–based measurements. Therefore, satellite–based remote sensing does not replace the need for more traditional measurement approaches.

In summary, the current available approaches to measure reservoir surface emissions lack sufficient confidence and would require more development to lead to accurate emissions estimates from individual dams and reservoirs for the purposes of reporting under the MRR.

2. Degassing and Downstream Emissions

The amount of degassing that occurs as water leaves the dam is commonly estimated using concentration–based methods. Here, CO_2 and CH_4 concentrations are compared in water before and after it passes through dam infrastructure, such as turbines and spillways (Kemenes et al. 2007). The difference in gas concentration between the two locations is then combined with outlet discharge estimates to determine the amount of gas released via degassing. This kind of manual sampling around hydropower infrastructure can be challenging and dangerous; as such, newer automated systems are being researched for their ability to provide real–time concentration data from turbine water with limited maintenance (Deblois et al. 2023). Additional sampling of diffusive fluxes downstream can be measured using floating chambers (Guérin et al. 2006) or dissolved gas concentrations (DelSontro et al. 2016), similar to above.

3. How Dam and Reservoir Emissions are Upscaled

Estimating the net GHG flux from reservoirs requires scaling estimates across space and time. At its simplest, this exercise takes an emissions factor approach whereby an average emission rate is multiplied by the total surface area of a reservoir (or a group of reservoirs). While this approach is simple and straightforward, it masks the substantial variability that exists within and among reservoir systems. A more refined approach uses measured flux data to build empirical models that relate estimates to important drivers (i.e., covariates), such as reservoir size, climate, nutrient availability, and trophic status. These models are then used to predict fluxes at unsampled locations where relevant covariate information exists (Seth et al. 2026). To provide a more mechanistic lens, "semi–empirical" or process–based models can be used to produce estimates for unsampled locations by combining measured data with simplified representations of the processes responsible for moderating GHG dynamics (Delwiche et al. 2022; Seth et al. 2026).

The most widely used modeling tool for upscaling reservoir GHG emissions is the GHG Reservoir Tool (G–res Tool). G–res relies on a series of empirical models developed from global datasets to estimate the net GHG footprint of a reservoir over its lifetime (Prairie et al. 2017). While this tool is a considerable advancement in the application of reservoir modeling to real–world needs (Karambelkar et al. 2025; Seth et al. 2026), its approach remains limited, and its predictions imprecise (Karambelkar et al. 2025; Pilla et al. 2025).

In conclusion, accurately measuring emissions and then creating upscaled emissions estimates from dams and reservoirs, even when using net flux methods, remains a challenge.

IV. Existing Estimation and Reporting Methodologies for Dam and Reservoir System Emissions

The IPCC provides a methodology for estimating and reporting dam and reservoir system emissions consistent with currently available science. This existing framework provides a potential avenue for CARB to estimate and track California dam and reservoir emissions, and has previously been used by the U.S. EPA to estimate dam and reservoir emissions in California as described below.

A. *IPCC Reporting Guidelines for Dams and Reservoir Systems*

The IPCC standardized GHG accounting framework enables governing entities to produce robust and comparable estimates of net GHG emissions within their jurisdictional boundaries. This framework is used by countries worldwide to compile their national GHG inventories under the United Nations Framework Convention on Climate Change (UNFCCC). The guidance is organized by sector and covers all major GHGs, including CO_2, methane (CH_4), nitrous oxide (N_2O), and other short–lived climate pollutants.

Under the IPCC GHG accounting framework, dams and reservoirs are reported as Flooded Lands within the wetlands category (3B4) of the agriculture, forestry, and other land use (AFOLU) sector (Figures 3 & 4). Thus, this is how it is reported for the US GHG Inventory (EPA 2024) as well as other governing entities such as Canada (ECCC 2025).

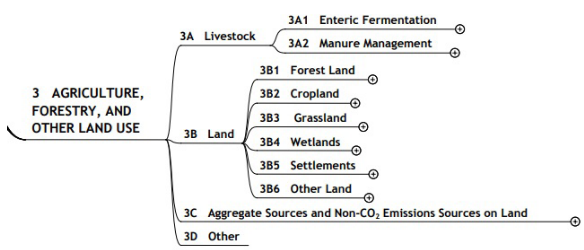

Figure 3 — Main categories of emissions by sources and removals by sinks within the AFOLU sector (IPCC 2006b). Following the IPCC framework, dams and reservoirs are quantified within the Wetlands category (3B4). CARB's NWL Carbon Inventory covers all of 3B, including 3B4.

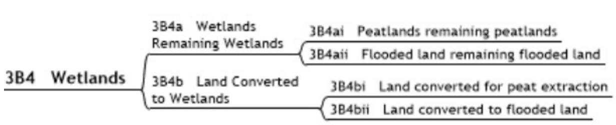

Figure 4 — This subset of the IPCC AFOLU reporting structure diagram shows the Flooded Lands category (dams and reservoirs) within the broader Wetlands reporting category (IPCC 2006c).

The IPCC provides guidance on how to quantify CO_2 and CH_4 emissions from dams and reservoirs within the wetlands chapter of the 2019 Refinement to the 2006 IPCC Guidelines (IPCC 2019). For CO_2, the guidance focuses on estimating emissions that occur when the land is first flooded, with CO_2 emissions from the surrounding unflooded catchment accounted for in other land categories. For CH_4, the guidance provides methods for estimating emissions across the major reservoir pathways, including diffusive, ebullitive, and downstream (degassing and diffusive) emissions.

Because selecting an appropriate upscaling approach depends on several factors, including data availability and technical expertise, the IPCC provides a tiered framework that allows national and subnational entities to generate scaled estimates in a way that is responsive to these dependencies. Tier 1 methods rely on default emission factors and relatively simple "activity" data, making them useful where information is limited. For reservoirs, the IPCC Tier 1 methods provide guidance on using emission factors that were developed by the Greenhouse Gas Reservoir (G–res) model (Prairie et al. 2017) and grouped into IPCC climate zone. Adjustment factors for nutrient status and productivity of reservoirs are provided to modify these default factors, if desired. Tier 2 methods provide guidance on generating region–specific emission factors that can take into account reservoir withdrawal depth, mean annual chlorophyll *a* concentration, trophic status, and additional contextual information. Tier 3 methods provide guidance on using process–based or empirical models and measurement campaigns to tailor estimates further.

Additionally, methods supported by the IPCC are for broad inventory estimation at the national or jurisdictional scale (e.g., state scale), and generally are not designed to maximize accuracy for any individual facility or reservoir to the same level of confidence as would be required under MRR.

B. *Previous estimate of California emissions using the IPCC Guidelines*

A 2024 US EPA report, Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990– 2022 ("US GHG Inventory"), provides emission estimates for reservoirs following the Tier 1 methodology in the 2019 Refinement to the 2006 IPCC Guidelines (IPCC 2019) described above.

The 2024 U.S. GHG Inventory report estimates that California reservoirs emitted 1.3 MMT CO_2e from surface and downstream pathways in 2022 (EPA 2024). The petitioner's estimates were considerably larger, at 5.3 MMT CO_2e. For context, other wetland types across California emitted a combined 0.44 MMT CO_2e in 2022 (CARB 2025), and wildfire in California emitted an average of 23.8 MMT CO_2e per year between 2001–2022. In that same timeframe, the combustion and decay of harvested wood products emitted an average of 14.6 MMT CO_2e per year (CARB 2025).

V. *Challenges with Accurately Quantifying Dam and Reservoir System Emissions*

Although estimates exist for California dam and reservoir system emissions, accurately and rigorously quantifying these emissions through direction measurement remains a challenge due to limitations of presently available measurement techniques, numerous sources of uncertainty in emissions from individual reservoirs, and difficulties scaling measurements to a statewide level.

A. *Sources of Uncertainty in Measuring Dam and Reservoir System GHG Emissions*

Numerous sources of uncertainty exist when quantifying reservoir GHG emissions, even among the most current and widely used methodologies. For instance, pronounced spatial and temporal patterns in reservoir GHG fluxes, paired with insufficient sampling campaigns, introduce large uncertainties into emission rate estimates that propagate during the upscaling process (Beaulieu et al. 2016; Pilla et al. 2025). This includes bias introduced from the predominance of daytime measurements, which fail to account for diel variability (Sø et al. 2023; Naslund et al. 2024). It also includes bias introduced when flux estimates are extrapolated from a non–representative subset of reservoirs often chosen for convenience (Beaulieu et al. 2020). Additional uncertainty is introduced with the covariate estimates required for upscaling. As an example, Delwiche et al. (2022) showed certain input parameters for the ResME model contained prediction intervals that ranged up to an order of magnitude. Finally, fluctuations in reservoir area are an important source of uncertainty in emission estimates as well (IPCC 2019; EPA 2024; Hansen et al. 2025). These and other uncertainties combine to make reservoir GHG budgets extremely difficult to constrain.

The high uncertainty associated with reservoir estimates can be seen across scales. For global Tier 1 estimates, the IPCC includes 95% confidence intervals (CI) associated with emission factors in different climates, which range from 15–20% of the modeled mean for CH_4 surface emissions and 190% of the median for downstream CH_4 emissions (IPCC 2019). In addition, a recent global analysis confirmed that degassing produces the largest but also the most uncertain flux using the G–res model, with global estimates ranging five–fold (95% CI from 227–1,261 MMT CO_2e y^{-1}) (Harrison et al. 2021). When considering different surface flux pathways within a single reservoir in Ohio, Beaulieu et al. (2016) reported 95% CI ranges for diffusive and ebullitive CH_4 fluxes as 32% and 58% of their respective means, although the magnitude of uncertainty may differ in California reservoirs. These examples are just a few of many in a growing body of literature that aim to highlight and mitigate the uncertainty of reservoir estimates (Karambelkar et al. 2025; Seth et al. 2026).

To reduce uncertainties, robust, statistically valid sampling campaigns that consider variability within and among reservoirs are required. These campaigns must include enough sampling stations and sampling periods per reservoir as well as enough reservoirs per area (IPCC 2019). In addition, obtaining accurate measurement of covariates such as dissolved organic carbon and chlorophyll *a* alongside GHG flux measurements are required to provide critical data needed to reduce uncertainty during upscaling (Deemer and Holgerson 2021). In California specifically, multiple streams of California–specific field data (including GHG emissions and co–variates) must be combined with management information from reservoirs and remote sensing frameworks to constrain uncertainty statewide. These campaigns require additional data collection through existing procedures, as well as the development and application of novel or emerging methodologies described above that work for California systems.

B. *Challenges Associated with Measurement and Upscaling of Dam and Reservoir System GHG Emissions*

Fundamental technological barriers stand in the way of collecting complete and accurate GHG emissions data from reservoirs across California, as requested by the petitioners. For a single operation, considerable time and effort would be required for reporting entities to conduct field sampling and produce accurate reservoir–wide GHG budgets. In one estimate using standard monitoring approaches (IHA 2010), an average of 4 sampling campaigns covering 20–30 sampling stations within a reservoir would be required to achieve 10% precision in the mean. For smaller reservoirs, the number of sampling stations required may be lower, but at least half a dozen locations would still be needed (Naslund et al. 2024). To provide context for the amount of staff time this would require, it took Bevelhimer et al. (2016) 2–3 days within a given reservoir to measure diffuse emissions from six sites, ebullition from two sites, and degassing using concentration–based measurements from the reservoir and downstream tailwater. This did not include pre–sampling preparation or post–sampling analysis.

In addition to the time required for field sampling, reservoir GHG monitoring depends on specialized, often costly equipment, instrumentation, and technical expertise. For instance, common floating chamber methods require either access to a laboratory for gas analysis or connection to an in–situ gas analyzer, which can cost on the order of ~$40,000. Newer autonomous floating chambers can reduce costs considerably (one unit is approximately ~$1,000) (Dietrich et al. 2025), but they still require specialized expertise to assemble, deploy, operate, and analyze. In addition, eddy covariance flux towers cost between $100,000–$150,000 to procure and install, and then another ~$100,000 per year to maintain. These estimates are likely on the low side for reservoir–based flux towers, given additional investments would be needed to build floating structures and outfit towers with additional equipment to correct estimates if those structures are not stable. In addition, deploying and maintaining flux towers requires considerable specialized expertise, particularly over water, where methods and infrastructure are still being tested and refined.

Practical barriers also arise when upscaling site–level field measurements. To generate GHG budgets for a single reservoir, measurements from individual stations must be upscaled to represent the full water body, requiring staff time and scientific ability to deploy any number of the approaches described in the *Upscaling* section, above. With nearly 1,500 reservoirs distributed across the state, estimating reservoir emissions across California collectively requires technical expertise with strong scientific understanding to leverage emerging field data, management data, and remote sensing products to go beyond Tier 1 estimates.

VI. *Rationale for Decision*

Petitioners urge CARB to include dams and reservoirs — both those that generate hydropower and those that do not — as reporting entities that must report their GHG emissions under MRR. At present, CARB does not believe that such emissions are capable of the rigorous quantification AB 32 directs MRR to require, nor that there is sufficient information to conclude that dam and reservoir system emissions are a significant source of emissions under MRR.

A. *Rigorous and Consistent Accounting of Dam and Reservoir System Emissions Is Not Yet Possible*

Petitioners suggest that including dam and reservoir systems in MRR is proper because including these emissions would "fit well within the MRR's current purpose and structure" because they are "anthropogenic processes that generate point source–type emissions similar to the other facilities and source categories currently required to report emissions under the MRR."[14] However, the "fit" between dam and reservoir system emissions and MRR is in tension with AB 32's direction that CARB create and implement MRR to "ensure rigorous and consistent accounting of emissions."

Unlike sources regulated under MRR, emissions from dam and reservoir systems, at present, are not capable of the rigorous and consistent accounting required for MRR. Specifically: 1) technology sufficient to accurately and cost–effectively measure dam and reservoir system emissions is not yet available to allow for measurement at scale in accordance with the rigorous standards required by the MRR; and 2) understanding dam and reservoir systems' contribution to climate change requires using ecosystem modeling and construction of counterfactual assumptions which introduce levels of uncertainty that MRR has not been designed to accommodate.

1. Current Technical, Economic, and Logistical Limitations Preclude Direct, Continuous Measurement of Dam and Reservoir System Emissions in Accordance with MRR's Accuracy Standards

AB 32 directs CARB to ensure its regulations AB 32 to those for which "ensure rigorous and consistent accounting of emissions." Therefore, MRR has historically required rigorous and consistent accounting and verification of emissions. Sources covered by MRR to date primarily consist of activities related to fuel combustion, chemical conversion of feedstocks, and/or vented emissions where inputs and/or resulting stack emissions can be measured with devices demonstrated to be accurate within the +/– 5% accuracy standards specified in MRR — a standard that has existed since MRR's adoption in 2007. In contrast, dams and reservoirs are fugitive emissions sources which produce diffuse, spatially and temporally variable emissions. Fugitive emission sources are not typically incorporated into MRR reporting because of the inability to measure them at the accuracy specifications required by the MRR program.[15]

Emissions sources at facilities subject to MRR must meet the +/–5% measurement accuracy requirements, pursuant to section 95103(k), title 17, California Code of Regulations, based on measured fuel parameters such as mass and volume and fuel characteristic data. This standard is based on industry–accepted quantification methods and relies on clear emissions boundaries for accurate and consistent measurement (2007 MRR ISOR). As discussed in the Sources of Uncertainty section above, there are myriad factors contributing to the significant uncertainty in quantifying emissions from dams and reservoirs that remain active areas of research. While some devices utilized in measuring methane emissions in dams and reservoirs may meet the accuracy requirement of MRR, the factors that drive total reservoir emissions (some of which are unknown) vary significantly across reservoirs in the state, leading to high spatial and temporal variability in emissions. Uncertainties in quantification methodologies to accurately capture this variability extend beyond the measuring device and result in overall emissions estimates that would not meet the MRR accuracy requirement.

The measurement efforts discussed in the *How Emissions are Empirically Tracked and Measured* section above describe the range of methodologies

[14] Petition at 1.

[15] MRR reporting includes a limited number of small fugitive sources at facilities in the refining and oil and gas production sectors that are otherwise required to report emissions from fuel combustion, consumption and venting processes. Fugitive emissions from the transmission and distribution of natural gas by pipelines are reported by natural gas supplier.

that have been used in these systems. Widely accepted and standardized methods for quantifying emissions from dams and reservoirs do not exist currently. Satellite–based measurements of emissions, as discussed in the *How Emissions are Empirically Tracked and Measured* section above, remain uncertain and have not been employed by other sectors included in the MRR for similar reasons.

A combination of widespread, continuous sampling campaigns and deployment of direct measurement devices, described above, could theoretically provide accurate measurements of some types of dam and reservoir system emissions at scale. However, the cost and logistics of such an effort have not been studied; without even preliminary research on this topic, determining with reasonable accuracy the economic impact of mandatory reporting of dam and reservoir system emissions — an administrative requirement of the rulemaking process — would be very difficult, if not impossible.

The final issue with incorporating dam and reservoir system emissions into MRR is verification. A key component of the MRR is the third–party verification program. For verifiers to reach reasonable assurance of the accuracy of the reported emissions, as required by the MRR, they must trace emission quantification to a reliable data source that they are confident in and for which the uncertainty is known. The body of science for dam and reservoir emissions discussed in the sections above shows that quantification methods continue to require research and development to address the numerous sources of uncertainty. Additionally, the physical boundaries for emission sources may change over time as reservoir conditions fluctuate, creating inconsistencies from a verification perspective. Without a more established body of science, verifiers may be challenged to meet the reasonable assurance threshold.

2. *Calculating Dam and Reservoir System Net Emissions Without Direct, Regular Measurement Would Require Use of Modeling Which MRR Does Not Accommodate*

Industrial and transportation–related emissions from the combustion and use of fossil fuels and other organic compounds — a primary focus of MRR — have the distinct advantage of being readily measured because they result from the release of CO_2 from extraction and combustion of fossil fuels. Fossil fuel combustion transfers carbon from long–term storage in geologic reservoirs into the atmosphere as an effectively permanent addition on human timescales.

In contrast, CH_4 and CO_2 emissions from dams and reservoirs redistribute carbon already cycling through the land–atmosphere system. These emissions originate in organic material that is part of a faster, more dynamic cycle between the atmosphere, plants, soil, and water, in which carbon emitted in one year can be reabsorbed by ongoing growth across the landscape in the same or subsequent years. Understanding the contribution of one molecule of methane emitted from a dam or reservoir to climate change is not as simple as detecting when and where the molecule was emitted — it requires a comprehensive understanding of the methane molecule's life cycle prior to emission into the atmosphere.

The ecosystem modeling described requires intensive research and development and necessarily introduces uncertainty into any calculation of carbon intensity, which makes rigorous measurement and accurate accounting challenging. MRR, which as noted previously requires measurement techniques to be accurate within +/–5%, has not been designed to allow for the inclusion of sources which require ecosystem modeling and counterfactual scenarios to accurately quantify.

B. *Insufficient Evidence Exists that Dam and Reservoir System Emissions in California Are a Significant Source of Emissions for Purposes of MRR*

Petitioners assert that dam and reservoir systems are a "significant source of GHG emissions" that are "going unreported and unconsidered" presently, and thus CARB "must take action to revise its reporting regulations" to include dam and reservoir system emissions.[16] However, emissions for reservoirs and dams (for the over 1,300 that exist in the state) are far lower, and thus less significant, than the source categories that are currently regulated under MRR. The lowest–emitting MRR source category, cement plants (of which there are 7 facilities in the state), emits nearly double the GHG emissions as the most generous estimate of dam and reservoirs, and other MRR source categories emit up to 160 MMTCO2e (as of 2023 data; see Figure 1). Based on the estimates CARB evaluated, ranging from approximately 1 to 5 MMTCO2e, CARB is unable to reach the conclusion that dam and reservoir systems are a significant source of emissions relative to other MRR source categories, necessitating regulation under MRR.

AB 32 directs CARB to regulate sources and categories of sources of GHGs the emissions of which "are at a level of significance, as determined by [CARB], that [their] participation in [CARB's AB 32 programs) will enable [CARB] to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions limit." Additionally, AB 32 directs CARB to begin focusing MRR on those sources and source categories which "contribute the most to statewide emissions."[17]

[16] Petition at 27.

[17] Health & Safety Code, § 38530.

As discussed above, based on CARB's review of scientific literature, including sources provided by petitioners, CARB is not able to determine whether dam and reservoir system emissions constitute a significant source of GHG emissions relative to other MRR source categories. Even the most recent, rigorous studies estimating dam and reservoir emissions document great uncertainty regarding overall levels of emissions due to numerous variables which are difficult to account for, such as daily and seasonal variability of fluxes, challenges with identifying and sampling a representative subset of reservoirs for purposes of scaling emissions estimates, and reliance of degassing estimates on multiple, unsettled assumptions. Further scientific research estimating the size of California dam and reservoir system emissions with greater accuracy, completeness, and confidence may provide necessary clarity regarding the threshold issue of whether California dam and reservoir system emissions represent a major source of emissions in California. Although this is an active area of research, technological advancements in measuring and quantifying dam and reservoir system emissions — discussed above and in further detail below — may be needed for such research to occur.

VII. ***The NWL Carbon Inventory is the Appropriate Tool to Track Dam and Reservoir System Emissions in California***

The NWL Carbon Inventory is the State's official inventory for quantifying the contribution of NWL (IPCC category 3B) toward carbon neutrality. The primary objective of the NWL Carbon Inventory is to provide an estimate of organic carbon stored in the State's land base, serving as a tool to support California's climate goals. It monitors carbon stocks across California through time in a way that captures the impacts of climate, wildfires, land use change, and land management activities. Following IPCC guidance, the NWL Carbon Inventory also assesses GHG fluxes from wetlands. All landscapes are estimated within the inventory, even ones highly modified by human activity, including urban areas, croplands, and managed wetlands. The emissions associated with dams and reservoir systems are well suited to being counted within the NWL Carbon Inventory, which counts carbon and emissions across the entire landscape of California.

CARB's NWL Carbon Inventory addresses IPCC code 3B within the AFOLU sector (Figures 3 & 4). As part of its objective, the NWL Carbon Inventory provides a quantitative estimate of GHG fluxes from, and organic carbon stored in, wetlands statewide (Figure 5).

To date, dams and reservoirs have not been included in the NWL Carbon Inventory due to a combination of data, methodological, and resource limitations. However, future iterations could explore Tier 1, 2, or 3 approaches to incorporate GHG flux estimates for this Flooded Lands category. The NWL Carbon Inventory is designed to be responsive to advances in science and technology and does not require regulatory updates to incorporate methodological changes. As such, it offers a nimble, flexible framework for landscapes such as reservoirs, where uncertainty remains high but methods, data availability, and scientific understanding are rapidly evolving.

Figure 5 — Greenhouse gas flux from California's wetlands in 2022. Values are expressed in metric tons of CO_2e/acre/year. CO2e includes both CO_2 and CH_4 emissions (CARB 2025).

Methodologically, the NWL Carbon Inventory combines field measurements, emission factors, remote sensing data products, and models to produce its estimates. Although land–sector entities are not currently required to report actions or emissions to CARB for purposes of the NWL Carbon Inventory, it uses the most comprehensive and up–to–date information possible to produce the most accurate accounting possible. Going forward, planned efforts to maintain and improve the inventory include expanding the quality and coverage of field–based observations, leveraging state–of–the–art remote sensing technologies, and integrating more detailed data on disturbance and land management into modeling efforts. This all–of–the–above measuring and modeling approach is a logical fit for dam and reservoir system emissions, which as discussed above, cannot presently be directly measured at scale.

The NWL Carbon Inventory complements CARB's AB 32 GHG Inventory. The AB 32 GHG Inventory addresses GHG emissions from other select categories of agriculture (IPCC code 3A & 3C), as well as from the industry, transportation, electric power, commercial and residential, and recycling and waste sectors. Together, these inventories provide a more complete tracking of the state's GHG emissions and removals over time and work together to provide transparency on the State's progress toward carbon neutrality (Figure 6).

Figure 6 — Reaching carbon neutrality by 2045 requires reducing statewide GHG emissions from AB 32 sources by 85% below 1990 levels, accounting for natural and working lands, and balancing any remaining emissions through carbon removal technologies. CARB's AB 32 GHG Inventory and NWL Carbon Inventory set the foundation for tracking progress toward California's carbon neutrality goal.

As discussed above, estimates of emissions from California's reservoirs range greatly, from 1.3 MMT CO_2e as reported by the U.S. GHG Inventory, and 5.3 MMT CO_2e, as suggested by the petitioners. Given this range of estimates and the uncertainty inherent in current approaches to estimating reservoir emissions, CARB staff are committing to continue to evaluate and improve estimates of California's reservoir emissions in a future inventory release, following incorporation of dam and reservoir system emissions into the NWL.

The NWL Carbon Inventory is CARB's official inventory to track GHG fluxes associated with wetlands, including Flooded Lands under the IPCC framework. While Flooded Lands are not currently included in the inventory, it is designed to produce spatially explicit results that can be aggregated to provide GHG flux estimates for wetland categories statewide and by region (CARB 2025). Results are disaggregated by year, county, air district, ownership, and region, and made available to the public. The NWL Carbon Inventory employs an all–of–the–above approach to quantification, utilizing systems–level modeling and remote sensing techniques that estimating dam and reservoir system emissions at scale presently requires. Including Flooded Lands in future iterations of the NWL Carbon Inventory would be an effective way to raise awareness of dams and reservoirs' GHG emissions and help ensure robust access to accurate and timely GHG estimates.

Furthermore, the NWL Carbon Inventory is a tool to provide transparency on progress towards the State's climate goals and can be leveraged as appropriate to support the maintenance or development of science–based policies. Information from the NWL Carbon Inventory is used to evaluate progress towards California's climate and carbon neutrality targets, including California goal of achieving carbon neutrality by 2045. The NWL Carbon Inventory estimates CH_4 emissions from wetlands following the standardized IPCC framework, which is designed to provide robust and comparable inventory estimates across jurisdictional boundaries. Including Flooded Lands following the standardized IPPC framework in future iterations of the NWL Carbon Inventory will help ensure the State is accounting for emissions of CH_4 from dams and reservoirs.

VIII. *Determination and Conclusion*

After careful consideration of the Petition for rulemaking, the relevant law, and the current context of ongoing policy development and anticipated implementation activity, CARB denies petitioners' Petition for rulemaking but grants other relief, pursuant to Government Code section 11340.7,[18] which provides that CARB "may grant or deny the Petition in part and may grant any other relief or take any other action it may determine to be warranted by the petition."[19]

Specifically, CARB is:

1. Denying the Petition by declining to initiate a rulemaking to include dams and reservoirs in CARB's MRR regulation at this time.

[18] CARB may delegate any duty it deems appropriate to its Executive Officer (Health & Safety Code, § 39515(a)). CARB is conclusively presumed to have delegated any of its powers to the Executive Officer unless it has expressly reserved that power to itself (Health & Safety Code, § 39516). CARB has not reserved the power to act on rulemaking petitions and it is, therefore, appropriate for the Executive Officer to act on this petition pursuant to this delegated authority.

[19] Gov. Code, § 11340.7 provides that an agency addressing a petition shall "identify the agency, the party submitting the petition, the provisions of the California Code of Regulations requested to be affected, reference to authority to take the action requested, the reasons supporting the agency determination, an agency contact person, and the right of interested persons to obtain a copy of the petition from the agency." This response fulfills those requirements.

2. Granting other relief by affirming that CARB will continue to engage with petitioners, other stakeholders, and partner agencies on tracking dam and reservoir system emissions in California raised in the petition; namely, through consideration and implementation of adding Flooded Lands — which include dams and reservoir–produced GHG emissions — to the inventory of Natural and Working Lands in California. In addition, CARB will review existing research and identify needs for future research to support direct measurement of emissions from dams. Lastly, CARB will convene a meeting to discuss hydropower–related GHG accounting and invite other state partner agencies to participate in that meeting.

The record upon which this decision is based includes the Petition and its exhibits, this letter, and the materials referenced herein. While CARB is denying the Petition to initiate rulemaking, CARB appreciates and welcomes petitioners' continued engagement and information sharing within these ongoing public processes to improve our programs and the achievement of our shared important policy goals.

In accordance with Government Code section 11340.7, subdivision (d), a copy of this letter is being transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register. The agency contact persons in this matter are Alex Mesher, Attorney, available at alexander.mesher@arb.ca.gov and Aria Soeprono, Attorney, available at aria.soeprono@arb.ca.gov. Interested parties may obtain a copy of the Petition upon request to Roberta Ruch, available at 279–208–7781. Upon request, physical copies may be obtained from 1001 I Street, Sacramento, California, 95814.

Sincerely,

/s/

Steven S. Cliff, Ph.D., Executive Officer

cc: (via email only):

Lauren Sanchez, Chair

California Air Resources Board Honorable Board Members

Emily Wimberger, Chief of Staff and Policy Advisor to the Chair

Courtney Smith, Principal DeputyExecutive Officer

Rajinder Sahota, CARB Deputy Executive Officer

Shannon M. Dilley, CARB Chief Counsel

Abigail May, Deputy Counsel

Matthew Botill, Chief, Industrial StrategiesDivision

David Hults, Assistant Chief Counsel

Rhead Enion, Assistant Chief Counsel

Literature References

Beaulieu, J. J., McManus, M. G., & Nietch, C. T. (2016). Estimates of reservoir methane emissions based on a spatially balanced probabilistic–survey. *Limnology and Oceanography*, 61(S1), S27–S40.

Beaulieu, J. J., Waldo, S., Balz, D. A., Barnett, W., Hall, A., Platz, M. C., & White, K. M. (2020). Methane and carbon dioxide emissions from reservoirs: controls and upscaling. *Journal of Geophysical Research: Biogeosciences*, 125(12), e2019JG005474.

Bevelhimer, M. S., Stewart, A. J., Fortner, A. M., Phillips, J. R., & Mosher, J. J. (2016). CO2 is dominant greenhouse gas emitted from six hydropower reservoirs in southeastern United States during peak summer emissions. *Water*, 8(1), 15.

CARB. (2025). The Natural and Working Lands Carbon Inventory. https://ww2.arb.ca.gov/our–work/programs/nature–based–strategies/natural–and–working–lands–carbon–inventory/2025–natural.

CARB. (2019). The Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. https://ww2.arb.ca.gov/mrr–regulation.

Deemer, B. R., & Holgerson, M. A. (2021). Drivers of methane flux differ between lakes and reservoirs, complicating global upscaling efforts. *Journal of Geophysical Research: Biogeosciences*, 126(4), e2019JG005600.

DelSontro, T., Perez, K. K., Sollberger, S., & Wehrli, B. (2016). Methane dynamics downstream of a temperate run–of–the–river reservoir. *Limnology and Oceanography*, 61(S1), S188–S203.

DelSontro, T., Kunz, M. J., Kempter, T., Wüest, A., Wehrli, B., & Senn, D. B. (2011). Spatial heterogeneity of methane ebullition in a large tropical reservoir. *Environmental science & technology*, 45(23), 9866–9873.

Delwiche, K., & Hemond, H. F. (2017). An enhanced bubble size sensor for long–term ebullition studies. *Limnology and Oceanography: Methods*, 15(10), 821–835.

Dietrich, Z. A., Savage, K. E., Atwood, A., Abrams, L. J., & Macedo, M. N. (2025). AQUA–flux: An inexpensive, autonomous floating chamber for high–frequency, long–term monitoring of greenhouse gas fluxes from aquatic ecosystems. *Journal of Geophysical Research: Biogeosciences*, 130(12), e2025JG008896.

Environment and Climate Change Canada (ECCC). (2025). National Inventory Report 1990–2023: Greenhouse Gas Sources and Sinks in Canada. canada.ca/ghg–inventory.

Environmental Protection Agency (EPA). (2024). Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2022 U.S. Environmental Protection Agency, EPA 430R–24004. https://www.epa.gov/ghgemissions/inventory–us–greenhouse–gas–emissions–and–sinks–1990–2022.

Eugster, W., DelSontro, T., & Sobek, S. (2011). Eddy covariance flux measurements confirm extreme CH4 emissions from a Swiss hydropower reservoir and resolve their short–term variability. *Biogeosciences*, 8(9), 2815–2831.

Golub, M., Koupaei–Abyazani, N., Vesala, T., Mammarella, I., Ojala, A., Bohrer, G., … & Desai, A. R. (2023). Diel, seasonal, and inter–annual variation in carbon dioxide effluxes from lakes and reservoirs. *Environmental Research Letters*, 18(3), 034046.

Guérin, F., Abril, G., Richard, S., Burban, B., Reynouard, C., Seyler, P., & Delmas, R. (2006). Methane and carbon dioxide emissions from tropical reservoirs: Significance of downstream rivers. *Geophysical Research Letters*, 33(21).

Hansen, C., Pilla, R., Matson, P., Skinner, B., Griffiths, N., & Jager, H. (2022). Variability in modelled reservoir greenhouse gas emissions: comparison of select US hydropower reservoirs against global estimates. *Environmental Research Communications*, 4(12), 121008.

Hansen, C. H., Iftikhar, B., Pilla, R. M., Griffiths, N. A., Matson, P. G., & Jager, H. I. (2025). Temporal variability in reservoir surface area is an important source of uncertainty in GHG emission estimates. *Water Resources Research*, 61(1), e2024WR037726.

Harrison, J. A., Prairie, Y. T., Mercier–Blais, S., & Soued, C. (2021). Year–2020 global distribution and pathways of reservoir methane and carbon dioxide emissions according to the greenhouse gas from reservoirs (G–res) model. *Global Biogeochemical Cycles*, 35(6), e2020GB006888.

Harrison, J. A., Deemer, B. R., Birchfield, M. K., & O'Malley, M. T. (2017). Reservoir water–level drawdowns accelerate and amplify methane emission. *Environmental science & technology,* 51(3), 1267–1277.

IPCC. (2019). *2019 refinement to the 2006 IPCC guidelines for national greenhouse gas inventories, Volume 4: Agriculture, forestry and other land use, Chapter 7: Wetlands.* https://www.ipcc–nggip.iges.or.jp/public/2019rf/pdf/4_Volume4/19R_V4_Ch07_Wetlands.pdf.

IPCC. (2006a). *2006 IPCC guidelines for national greenhouse gas inventories, Volume 1: General guidance and reporting, Chapter 3: Uncertainties.* https://www.ipcc–nggip.iges.or.jp/public/2006gl/pdf/1_Volume1/V1_3_Ch3_Uncertainties.pdf.

IPCC. (2006b). *2006 IPCC guidelines for national greenhouse gas inventories: Overview.* https://www.ipcc–nggip.iges.or.jp/public/2006gl/pdf/0_Overview/V0_1_Overview.pdf.

IPCC. (2006c). *2006 IPCC guidelines for national greenhouse gas inventories, Volume 4: Agriculture, forestry and other land use, Chapter 1: Introduction.* https://www.ipcc–nggip.iges.or.jp/public/2006gl/pdf/4_Volume4/V4_01_Ch1_Introduction.pdf.

International Hydropower Association (IHA). (2010). *GHG measurement guidelines for freshwater reservoirs: Derived from the UNESCO/IHA Greenhouse Gas Emissions from Freshwater Reservoirs Research Project* (J. A. Goldenfum, Ed.).

Jager, H. I., Pilla, R. M., Hansen, C. H., Matson, P. G., Iftikhar, B., & Griffiths, N. A. (2023). Understanding how reservoir operations influence methane emissions: A conceptual model. *Water*, 15(23), 4112.

Karambelkar, S., Fischer, M., & Ames, S. (2025). Hydropower Reservoir Greenhouse Gas Emissions: State of the Science and Roadmap for Further Research to Improve Emission Accounting and Mitigation. *Sustainability*, 17(13), 5794.

Kemenes, A., Forsberg, B. R., & Melack, J. M. (2007). Methane release below a tropical hydroelectric dam. *Geophysical research letters*, 34(12).

Linkhorst, A., Paranaíba, J. R., Mendonça, R., Rudberg, D., DelSontro, T., Barros, N., & Sobek, S. (2021). Spatially resolved measurements in tropical reservoirs reveal elevated methane ebullition at river inflows and at high productivity. *Global Biogeochemical Cycles*, 35(5), e2020GB006717.

Maeck, A., DelSontro, T., McGinnis, D. F., Fischer, H., Flury, S., Schmidt, M., … & Lorke, A. (2013). Sediment trapping by dams creates methane emission hot spots. *Environmental science & technology*, 47(15), 8130–8137.

Martinsen, K. T., Kragh, T., & Sand–Jensen, K. (2018). A simple and cost–efficient automated floating chamber for continuous measurements of carbon dioxide gas flux on lakes. *Biogeosciences*, 15(18), 5565–5573.

Naslund, L. C., Mehring, A. S., Rosemond, A. D., & Wenger, S. J. (2024). Toward more accurate estimates of carbon emissions from small reservoirs. *Limnology and Oceanography*, 69(6), 1350–1364.

Pilla, R. M., Griffiths, N. A., Hansen, C., Turner, D., Fortner, A. M., Trent Jett, R., … & Phillips, J. R. (2025). Comparison of greenhouse gas emission estimates from six hydropower reservoirs using modeling versus field surveys. *Biogeochemistry*, 168(2), 28.

Prairie, Y. T., Alm, J., Harby, A., Mercier–Blais, S., & Nahas, R. (2017). *The GHG Reservoir Tool (G–res):*

Technical documentation. UNESCO/IHA Research Project on the GHG Status of Freshwater Reservoirs.

Seth, M., Aparicio, M. U., Nakomcic–Smargdakis, B., Brboric, M., Calamita, E., Dasic, T., … & Patro, E. R. (2026). A review of hydropower reservoir GHG estimation methods. *Renewable and Sustainable Energy Reviews*, *233*, 116859.

Sø, J. S., Sand–Jensen, K., Martinsen, K. T., Polauke, E., Kjær, J. E., Reitzel, K., & Kragh, T. (2023). Methane and carbon dioxide fluxes at high spatiotemporal resolution from a small temperate lake. *Science of the Total Environment*, *878*, 162895.

Soumis, N., Duchemin, É., Canuel, R., & Lucotte, M. (2004). Greenhouse gas emissions from reservoirs of the western United States. *Global Biogeochemical Cycles*, 18(3).

Uwe, S., Hehn, M., Keller, P., Matthias, K., & Bernhofer, C. (2020). A season of eddy–covariance fluxes above an extensive water body based on observations from a floating platform. *Boundary Layer Meteorology*, 174(3), 433–464.

Varadharajan, C., Hermosillo, R., & Hemond, H. F. (2010). A low–cost automated trap to measure bubbling gas fluxes. *Limnology and Oceanography: Methods*, 8(7), 363–375.

Waldo, S., Beaulieu, J. J., Barnett, W., Balz, D. A., Vanni, M. J., Williamson, T., & Walker, J. T. (2021). Temporal trends in methane emissions from a small eutrophic reservoir: the key role of a spring burst. *Biogeosciences*, 18(19), 5291–5311.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

REGARDING PETITION FROM MEL HEMPHILL CONCERNING TRUST ACCOUNT STATEMENTS

August 24, 2026

Mel J. Hemphill #D98156

Housing: CIM B4–123

P.O. Box 441

Chino, CA 91708

Dear Mel Hemphill:

Please find enclosed the Notice of Decision on Petition to Amend Regulations regarding California Code of Regulations, Title 15, Division 3, Section 3043.5. Pursuant to Government Code Section 11340.7, the Notice will be published in the California Regulatory Notice Register.

Sincerely,

/s/

YING SUN, Associate Director

Regulation and Policy Management Branch

California Department of Corrections and Rehabilitation

Enclosure

Date: August 24, 2026

To: Kenneth Pogue, Director

Office of Administrative Law

On July 29, 2026, a petition from incarcerated persons Mel Hemphill #D98156 was received by the Regulation and Policy Management Branch to amend section 3090(e) of California Code of Regulations, Title 15, Division 3 regarding "trust account statements."

The California Department of Corrections and Rehabilitation (CDCR) has denied the petition in its entirety. On August 24, 2026, CDCR mailed a copy of its decision to the petitioner.

If you have any questions regarding this information, please feel free to contact me at Ying.Sun@cdcr.ca.gov or Simon Genus of my staff at Simon.Genus@cdcr.ca.gov.

/s/

YING SUN, Associate Director

Regulation and Policy Management Branch

California Department of Corrections and Rehabilitation

Enclosure: Notice of Decision on Petition to Amend Regulations.

OAL REGULATORY DETERMINATION

OFFICE OF ADMINISTRATIVE LAW

2026 OAL DETERMINATION NUMBER 4 (OAL MATTER NUMBER CTU2026–0213–01)

REQUESTED BY: Kwesi Muhammad

CONCERNING: Office of Appeals decision, dated January 28, 2026; Office of Grievances de-

cision, dated November 4, 2025; and memorandum titled "Inmate Docket Information," dated March 28, 2022, all issued by the California Department of Corrections and Rehabilitation.

DETERMINATION ISSUED PURSUANT TO GOVERNMENT CODE SECTION 11340.5.

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. OAL review is limited to the sole issue of whether the challenged rule meets the definition of "regulation" as defined in Government Code section 11342.600 and is subject to the Administrative Procedure Act (APA).

If a rule meets the definition of "regulation," but was not adopted pursuant to the APA and should have been, it is an underground regulation as defined in California Code of Regulations (CCR), title 1, section 250.[1] Nothing in this analysis evaluates the advisability or wisdom of the underlying action or enactment.

CHALLENGED RULE

The challenged rule is a policy of the California Department of Corrections and Rehabilitation (CDCR) to not provide printouts of court docket information to incarcerated persons in CDCR libraries. This policy is articulated in at least the following written materials issued by CDCR: an Office of Appeals decision, dated January 28, 2026 (OOA Decision), an Office of Grievances decision, dated November 4, 2025 (OOG Decision), and a memorandum titled "Inmate Docket Information," dated March 28, 2022 (Inmate Docket Info Memo). A copy of the OOA Decision, the OOG Decision, and the Inmate Docket Info Memo are attached hereto as Exhibit A.

DETERMINATION

OAL determines that the challenged rule is a rule meeting the definition of a "regulation" that CDCR should have adopted pursuant to the APA but did not. The challenged rule, therefore, is an underground regulation.

FACTUAL BACKGROUND

On February 13, 2026, OAL received from Kwesi Muhammad (Petitioner) a petition challenging the policy of CDCR to not provide printouts of court docket information to incarcerated persons in CDCR libraries. This policy is articulated in CDCR's OOA Decision, OOG Decision, as well as the Inmate Docket Info Memo, which was previously challenged by another petitioner.

The current petition concerns the same policy issued and implemented by CDCR which CDCR certified to OAL that it would no longer issue, use, enforce, or attempt to enforce.[2] That certification of non–use, dated September 19, 2023, and received by OAL on September 22, 2023, was pursuant to OAL Matter Number CTU2023–0728–02 and concerned the Inmate Docket Info Memo.[3]

On April 14, 2026, OAL accepted the petition from Kwesi Muhammad for issuance of a determination. This determination will address all three iterations of the challenged rule as shown in Exhibit A.

On April 24, 2026, OAL published a summary of the petition in the California Regulatory Notice Register and solicited comments from the public until May 26, 2026. OAL did not receive any public comments on this petition.

A response to the petition from CDCR was due no later than June 8, 2026. OAL did not receive a response from CDCR.

EXISTING STATUTES AND REGULATIONS RELATING TO THE CHALLENGED RULE

The following statutory and regulatory provisions relate to the challenged rule.

1. CDCR is charged with the supervision, management, and control of the state prisons, and responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein.[4]
2. CDCR may prescribe and amend rules and regulations for the administration of state prisons. Except as otherwise specified in Penal Code sections 5058 to 5058.3, inclusive, the rules and reg-

[1] "Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA. (Cal. Code Regs., title 1, § 250, subdivision (a)(1).)

[2] See Cal. Code Regs., title 1, § 280.

[3] On October 6, 2023, OAL published in the California Regulatory Notice Register a summary of the petition challenging the Inmate Docket Info Memo and the certification from CDCR that it would not continue to use or enforce the memo. See California Regulatory Notice Register 2023, Vol. Number 40–Z (October 6, 2023).

[4] Pen. Code, § 5054.

ulations shall be promulgated and filed pursuant to the APA.[5]

3. CDCR generally uses the term "incarcerated person" to refer a person who is within CDCR custody and not paroled.[6] Historically, the term "inmate" has been used for the same purpose and continues to appear in some materials.[7]
4. All incarcerated persons, regardless of their classification or housing status, shall be entitled to physical law library access that is sufficient to provide meaningful access to the courts.[8] Physical law library access means physical entry into a facility law library for the purpose of using its legal resources. A facility law library includes, but is not limited to, a print law library or the Law Library Electronic Delivery System (LLEDS) with any necessary print supplements.[9]
5. Each CDCR facility shall provide legal materials through its law library to provide incarcerated persons with meaningful access to the courts.[10] Incarcerated persons who have established court deadlines may apply for Priority Legal User (PLU) status to the prison law libraries. Incarcerated persons who are granted PLU status based on their application shall receive higher priority to prison law library resources than other incarcerated persons.[11]
6. Legal duplication services may be provided to incarcerated persons for the purposes of initiating or maintaining a court action. The printed forms required by state and federal courts shall be made available to incarcerated persons. An incarcerated person shall be required to pay for the duplication of printed forms and other written or typed materials, and for any special paper and envelopes required for mailing to the courts so long as the incarcerated person has more than $25.00 in their trust account or the incarcerated person has attorney representation for the court action.[12]
7. A legal document to be duplicated for any incarcerated person, including all exhibits and attachments, shall be limited to the maximum number of pages needed for the filing, not to exceed 50 pages in total length, except when necessary to advance litigation. The incarcerated person shall provide to designated CDCR staff a written explanation of the need for excess document length.[13]
8. Subject to this qualified 50–page limitation, an indigent incarcerated person who does not have attorney representation may receive duplication services without charge for various specified court–related documents, including "additional documents that are necessary to advance litigation." For such additional documents, the incarcerated person shall provide to designated CDCR staff a written explanation of the need for additional documents.[14]
9. The authority to place restrictions on duplication services for any reason as described in CCR title 15, section 3162 shall not be delegated to CDCR staff below the level of correctional captain unless the person is designated by the Warden. The reasons for any restrictions on the services provided to an incarcerated person shall be documented on a CDC Form 128–B (Rev. 4.74), General Chrono, and placed in the incarcerated person's central file.[15]
10. CDCR employees must not assist an incarcerated or supervised person in the preparation of any legal document, or give any form of legal advice or service, except as specifically authorized by the warden, superintendent or regional parole administrator. CDCR employees should help incarcerated and supervised persons to find qualified assistance for their legal problems.[16]
11. CDCR's internal administrative structure includes Offices of Grievances that, among other things, review written complaints from incarcerated persons about CDCR actions, decisions, and policies.[17] CDCR also maintains an Office of Appeals to hear appeals from decisions made by Offices of Grievances.[18]

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides:

No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, in-

[5] Pen. Code, § 5058, subdivision (a)(1).

[6] Cal. Code Regs., title 15, § 3000.

[7] See, e.g., change without regulatory effect amending Cal. Code Regs., title 15, § 3000, filed July 1, 2024, pursuant to OAL Matter Number 2024–0521–02N.

[8] Cal. Code Regs., title 15, § 3123, subdivision (b).

[9] Cal. Code Regs., title 15, § 3123, subdivision (a).

[10] Cal. Code Regs., title 15, § 3122, subdivision (a).

[11] Cal. Code Regs., title 15, § 3122, subdivision (b).

[12] Cal. Code Regs., title 15, § 3162, subdivision (a).

[13] Cal. Code Regs., title 15, § 3162, subdivision (b).

[14] Cal. Code Regs., title 15, § 3162, subdivision (c).

[15] Cal. Code Regs., title 15, § 3162, subdivision (d).

[16] Cal. Code Regs., title 15, § 3405.

[17] Cal. Code Regs., title 15, §§ 3480, subdivision (b)(8), & 3483.

[18] Cal. Code Regs., title 15, §§ 3480, subdivision (b)(2), & 3485.

struction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of Government Code section 11340.5 that is not exempt from the APA, it creates an underground regulation as defined in section 250 of title 1 of the CCR.

OAL may issue a determination as to whether an agency has issued, utilized, enforced, or attempted to enforce a rule that meets the definition of a "regulation" as defined in Government Code section 11342.600 and should have been adopted pursuant to the APA.[19] An OAL determination is entitled to due deference in any subsequent litigation of the issue.[20]

ANALYSIS

OAL's authority to issue a determination extends only to the limited question of whether the challenged rule is a regulation subject to the APA. This analysis will determine (1) whether the challenged rule is a regulation within the meaning of Government Code section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

I. The Challenged Rule is a Regulation.

"Regulation" is defined in Government Code section 11342.600 as:

> … every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw,* the California Supreme Court found that:

> A regulation subject to the [APA] has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure.[21]

A. The Challenged Rule Applies Generally.

As stated in *Tidewater,* the first element used to identify a "regulation" is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the State of California. It is sufficient if the rule applies to a clearly defined class of persons or situations.[22]

The OOG Decision describes the subject of the grievance at issue as a "policy to not provide the incarcerated population with printouts of court docket information." On its face, this description indicates the policy applies to all incarcerated persons.

The OOA Decision denies Petitioner's request to reverse the OOG Decision and references the Inmate Docket Info Memo as part of the explanation for its reasoning. The Inmate Docket Info Memo states as follows.

> Subject: INMATE DOCKET INFORMATION
>
> This memorandum establishes the policy of the Office of Correctional Education in regards to providing docket information to inmates. As courts provide docket information to litigants, it is the policy of the California Department of Corrections and Rehabilitation (CDCR) libraries to not provide print outs of that information in the library. Inmates are directed to address requests for that information to the court where they have filed their case. Please post in CDCR libraries to ensure awareness.

By its own terms, the Inmate Docket Info Memo describes a policy that applies to "inmates" and "CDCR libraries" generally. Through its reference, the OOA Decision effectively endorses the Inmate Docket Info Memo as its own statement of CDCR policy. The OOA Decision also indicates its status as CDCR's final word on the matter, stating "this decision exhausts the administrative remedies available to the claimant within CDCR."

For these reasons, the challenged rule articulated in the OOG Decision, the OOA Decision, and the Inmate Docket Info Memo satisfies the first *Tidewater* element.

B. The Challenged Rule Implements, Interprets, and Makes Specific the Law Enforced or Administered by CDCR.

The second element of a regulation under *Tidewater* is that the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure.

Both the OOG Decision and OOA Decision cite as "controlling authority" CCR title 15, section 3405. CCR title 15, section 3405 implements CDCR's broad supervisory authority over prisons and the persons confined therein pursuant to Penal Code section 5054. CCR title 15, section 3405 states:

> Employees must not assist an incarcerated or supervised person in the preparation of any legal document,

[19] Gov. Code, § 11340.5, subdivision (b).

[20] *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 428.

[21] *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 571.

[22] *Roth v. Department of Veterans Affairs* (1980) 110 Cal.App.3d 622, 630.

or give any form of legal advice or service, except as specifically authorized by the warden, superintendent or regional parole administrator. Employees should help incarcerated and supervised persons to find qualified assistance for their legal problems.

In denying Petitioner printouts of the court docket, the OOG Decision explains:

Court docket information is intended for the purpose of verifying Priority Legal User (PLU) status for incarcerated persons (IPs) and providing court case updates. It is typical for the Courts to send communication to the IPs via mail. In reference to the Claimant's dissatisfaction with OCE's policy to not provide the IPs with printouts of court docket information, it should be noted that as per Title 15 3405, employees shall not provide legal services that are not authorized by the OCE Superintendent. Providing court case updates to the IPs via docket printouts is a service that is not authorized by CDCR personnel nor the OCE Superintendent, thus the librarians are not authorized to provide docket printouts to the IPs. If the Claimant needs updates on his court case, he may want to consider communicating directly with the Courts to request such updates.

CDCR's policy, as stated in the OOG Decision and affirmed by the OOA Decision, further implements, interprets, and makes more specific, at minimum, the conditional prohibition in CCR title 15, section 3405 that CDCR staff must not "assist an incarcerated or supervised person in the preparation of any legal document, or give any form of legal advice or service, except as specifically authorized." The OOG and OOA Decisions further interpret CCR title 15, section 3405 by specifying that providing incarcerated persons with "docket printouts" is a type of legal service and that CDCR staff are not authorized to provide this legal service to incarcerated persons.

The OOA Decision also cites to CCR title 15, section 3162 as "controlling authority." CCR title 15, section 3162 implements CDCR's broad supervisory authority over prisons and the persons confined therein pursuant to Penal Code section 5054. CCR title 15, section 3162 states in pertinent part as follows.

(a) Legal duplication services may be provided to incarcerated persons for the purposes of initiating or maintaining a court action. […] An incarcerated person shall be required to pay for the duplication of printed forms and other written or typed materials, and for any special paper and envelopes required for mailing to the courts so long as the incarcerated person has more than $25.00 in their trust account or the incarcerated person has attorney representation for the court action. […]

(b) A legal document to be duplicated for any incarcerated person, including all exhibits and attachments, shall be limited to the maximum number of pages needed for the filing, not to exceed 50 pages in total length, except when necessary to advance litigation. The incarcerated person shall provide to designated staff a written explanation of the need for excess document length.

(c) Subject to the length requirements of subsection 3162(b), an indigent incarcerated person who does not have attorney representation may receive duplication services without charge for the following legal documents to a court:

[…]

(10) Additional documents that are necessary to advance litigation. The incarcerated person shall provide to designated staff a written explanation of the need for additional documents.

(d) The authority to place restrictions on duplication services for any reason as described in this section shall not be delegated to staff below the level of correctional captain unless the person is designated by the Warden. The reasons for any restrictions on the services provided an incarcerated person shall be documented on a CDC Form 128–B (Rev. 4.74), General Chrono, and placed in the incarcerated person's central file.

The OOA Decision states as follows.

Review of the Inmate Docket Information Memorandum dated March 28, 2022, states in part that "courts provide docket information to litigants" and as such the departmental libraries do not provide print outs of that information in the library. The memorandum clearly outlines that appellant may request docket information to the court where appellant filed their cases. As such, this claim is denied.

CDCR's policy, as stated in the Inmate Docket Info Memo and restated in the OOA Decision, further implements, interprets, and makes more specific, at minimum, the scope of what is a "legal document" or "other written or typed materials" as well as what "legal duplication services may be provided to incarcerated persons for the purposes of initiating or maintaining a court action" pursuant to CCR title 15, section 3162.

Additionally, although not cited in the OOA Decision, the OOG Decision, or the Inmate Docket Info Memo, CDCR's policy as stated further implements, interprets, and makes more specific CCR title 15, section 3122, subsection (a). CCR title 15, section 3122 implements CDCR's broad supervisory authority over prisons and the persons confined therein pursuant to Penal Code section 5054. CCR title 15, section 3122, subsection (a), states as follows.

Each facility shall provide legal materials through its law library to provide incarcerated persons with meaningful access to the courts.

CDCR's policy further interprets that printouts of court docket information are not "legal materials" necessary "to provide incarcerated persons with meaningful access to the courts."

For these reasons, the challenged rule articulated in the OOA Decision, the OOG Decision, and the Inmate Docket Info Memo satisfies the second *Tidewater* element.

C. CDCR's Description of the Challenged Rule as a "Policy" Does Not Change the APA Analysis.

CDCR characterizes the challenged rule as a "policy," as reflected in the OOG Decision and the Inmate Docket Info Memo. This stylistic convention is immaterial to the determination of whether the challenged rule satisfies the requirements to be considered a regulation. "If it looks like a regulation, reads like a regulation, and acts like a regulation, it will be treated as a regulation whether or not the agency in question so labeled it."[23] This includes rules that function to interpret other regulations which the agency did adopt pursuant to the APA.[24]

II. The Challenged Rule is Not Exempt from the APA.

The final issue to examine is whether an express statutory exemption applies to the challenged rule. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies. Exemptions may also be specific to a particular rulemaking agency or a specific program. In any event, the rulemaking requirements of the APA apply "to the exercise of any quasi–legislative power conferred by any statute heretofore or hereafter enacted" and "shall not be superseded or modified by any subsequent legislation except to the extent that the legislation shall do so expressly."[25]

CDCR has not identified any express statutory exemption from the APA that would apply to the challenged rule, nor did OAL find any such exemption.

CONCLUSION

In accordance with the above analysis, OAL determines that the challenged rule is a rule meeting the definition of "regulation" that CDCR should have adopted pursuant to the APA. Therefore, the challenged rule is an underground regulation.

Date: August 24, 2026

/s/

Timothy D. Findley

Senior Attorney

[23] *State Water Resources Control Board v. Office of Administrative Law* (1993) 12 Cal.App.4th 697, 702.

[24] *See Alvarado v. Dart Container Corp. of California* (2018) 4 Cal.5th 542, 555; *Armistead v. State Personnel Board* (1978) 22 Cal.3d 198, 204.

[25] Gov. Code, § 11346.

For: Kenneth J. Pogue

Director

Copy: Jeffrey Macomber, Secretary

Renee Rodriguez, Correctional Counsellor II

Tamara M. Floyd, Supervisor I

EXHIBIT A

OFFICE OF APPEALS DECISION

Offender Name: MUHAMMAD, KWESI KHARY

Date: 01/28/2026

CDC#: P84376

Current Location: CTF–Facility C

Current Area/Bed: C FW 1 — 135001L

Log #: 807624

Claim # 001

Received at Institution/Parole Region: Correctional Training Facility

Submitted to Facility/Parole District: Correctional Training Facility

Housing Area/Parole Unit:

Group: Offender Services **Category:** Law Library **Sub–Category:** Lack of Access

I. ISSUE ON APPEAL

Appellant alleges that the Law Library hindered appellant's meaningful access to court by no longer providing print outs of docket information to litigants.

II. RULES AND REFERENCES

A. CONTROLLING AUTHORITY

Title 15, sections 3162 and 3405.

B. DOCUMENTS CONSIDERED

Grievance and Appeal Log Number 807624; Inmate Docket Information Memorandum dated March 28, 2022.

III. REASONING AND DECISION

Review of the Inmate Docket Information Memorandum dated March 28, 2022, states in part that "courts provide docket information to litigants" and as such the departmental libraries do not provide print outs of that information in the library. The memorandum clearly outlines that appellant may request docket information to the court where appellant filed their cases. As such, this claim is denied.

IV. REMEDY

Your claim has been denied. Therefore, there is no applicable remedy.

Decision: Denied

After a thorough review of all documents and evidence available at the time of this written decision, it is the order of the Office of Appeals that this claim is denied. This decision exhausts the administrative remedies available to the claimant within CDCR.

Staff Signature A. Delgado [DEAL047]

Title Reviewing Authority

Date/Time 01/27/2026

OFFICE OF GRIEVANCES DECISION

Offender Name: MUHAMMAD, KWESI KHARY

Date: 11/04/2025

CDC#: P84376

Current Location: CTF–Facility C

Current Area/Bed: C FW 1 — 135001L

Log #: 807624

Claim #: 001

Received at Institution/Parole Region: Correctional Training Facility

Submitted to Facility/Parole District: Correctional Training Facility

Housing Area/Parole Unit:

Group: Offender Services **Category:** Law Library **Sub–Category:** Lack of Access

I. CLAIM

Claimant Muhammad (CDCR#P84376) submitted grievance #807624 stating that he is dissatisfied with the Office of Correctional Education's (OCE) policy to not provide the incarcerated population with printouts of court docket information.

II. RULES AND REFERENCES

A. CONTROLLING AUTHORITY

California Code of Regulations, (CCR) CDCR Title 15, 3405.

B. DOCUMENTS CONSIDERED

Grievance #807624.

April 2025, Memorandum.

III. REASONING AND DECISION

A review of the Claimant's dissatisfaction with the Office of Correctional Education's (OCE) policy to not provide the incarcerated population with printouts of court docket information has been completed. Additionally, the Claimant was interviewed and given an opportunity to add any further information to support his claim, the Claimant had nothing further to add.

The OCE Principal over Library Services was interviewed, and the following information was provided: Court docket information is intended for the purpose of verifying Priority Legal User (PLU) status for incarcerated persons (IPs) and providing court case updates. It is typical for the Courts to send communication to the IPs via mail. In reference to the Claimant's dissatisfaction with OCE's policy to not provide the IPs with printouts of court docket information, it should be noted that as per Title 15 3405, employees shall not provide legal services that are not authorized by the OCE Superintendent. Providing court case updates to the IPs via docket printouts is a service that is not authorized by CDCR personnel nor the OCE Superintendent, thus the librarians are not authorized to provide docket printouts to the IPs. If the Claimant needs updates on his court case, he may want to consider communicating directly with the Courts to request such updates.

After careful review of the grievance claim and the CCR Title 15 regulations, it has been determined that there is no evidence to support that policy has been violated, therefore this grievance claim is denied.

IV. Comments

Decision: Denied

After a thorough review of all the documents and evidence presented to the Office of Grievances, it is the order of the Office of Grievances to DENY the claim.

If you are dissatisfied with the decision of this claim, you may appeal this decision by mailing a CDCR Form 602–2 to the Office of Appeals.

Staff Signature N. Gonzalez [GONI001]

Title Reviewing Authority

Date/Time 11/03/2025

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

Memorandum

Date: 3/28/2022

To:

Principals

Assistant Principals

Library Staff

Subject: **INMATE DOCKET INFORMATION**

This memorandum establishes the policy of the Office of Correctional Education in regards to providing docket information to inmates. As courts provide docket information to litigants, it is the policy of the California Department of Corrections and Rehabilitation (CDCR) libraries to not provide print outs of that information in the library. Inmates are directed to address requests for that information to the court where they have filed their case. Please post in CDCR libraries to ensure awareness.

/s/

BRANDY BUENAFE
Library Services
Office of Correctional Education
Division of Rehabilitative Programs

cc: Shannon Swain
Hillary Iserman
Associate Superintendents

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH THE SECRETARY OF STATE

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

Department of Food and Agriculture
File # 2026–0713–01
Caribbean Fruit Fly Interior Quarantine

In this certificate of compliance pursuant to Government Code section 11346.1(e), the Department of Food and Agriculture makes permanent the amendments to its regulations regarding establishment of an interior quarantine for the Caribbean fruit fly, made through Office of Administrative Law regulatory action number 2026–0316–03E.

Title 03
Amend: 3422
Filed 08/19/2026
Effective 08/19/2026
Agency Contact: Rachel Avila (916) 698–2947

California Film Commission
File # 2026–0813–01
California Film and Television Tax Credit Program

This emergency action by the California Film Commission readopts emergency regulations governing the Motion Picture Tax Credit 4.0 Program and Soundstage Filming Tax Credit Program to further implement Assembly Bill 1138 (Stats. 2025 chapter 27), which, in part, revised the definition of qualified motion picture to include live action and animated series with episodes averaging 20 minutes or more, animated films, and large–scale competition shows, as specified.

Title 10
Amend: 5550, 5551, 5552, 5553, 5553.1, 5553.2, 5554, 5554.2, 5555
Filed 08/24/2026
Effective 10/08/2026
Agency Contact: Leah Medrano (323) 817–4110

Department of Insurance
File # 2026–0716–03
CAARP Plan of Operations

In this file and print action pursuant to Insurance Code section 11620(c), the Department of Insurance amends the California Automobile Assigned Risk Plan (CAARP).

Title 10
Amend: 2498.4.9
Filed 08/25/2026
Effective 08/25/2026
Agency Contact:
Michael Riordan (415) 538–4226

Department of Public Health
File # 2026–0709–01
Active Bacterial Core Pathogens — Title 17 Section 2505 Update

This action by the Department of Public Health, submitted to OAL for filing with the Secretary of State and for printing in the California Code of Regulations, amends the list of reportable diseases and is exempt from the Administrative Procedure Act under Health and Safety Code section 120130.

Title 17
Amend: 2505
Filed 08/19/2026
Effective 08/19/2026
Agency Contact:
Jasmine Fullwood (279) 217–0681

Education Audit Appeals Panel
File # 2026–0720–02
Conflict–of–Interest Code

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

Title 05
Amend: 19802
Filed 08/24/2026
Effective 09/23/2026
Agency Contact: Rebecca Lee (279) 269–5775

Board of Forestry and Fire Protection
File # 2026–0715–01
Urban and Community Forestry Program Procedures 2026

In this rulemaking action, the Board of Forestry and Fire Protection amends its regulations to add definitions and update the grant application and review process.

Title 14
Amend: 1550, 1551.1, 1552.1, 1554, 1554.1, 1554.2, 1554.3, 1555
Filed 08/26/2026
Effective 10/01/2026
Agency Contact:
Jane Van Susteren (916) 619–9795

California Gambling Control Commission
File # 2026–0709–03
2026 Update to Annual Fees

In this rulemaking action, the California Gambling Control Commission amends regulations to update the annual fee amounts for cardroom business licensees and third–party proposition player services.

Title 04
Amend: 12092, 12094
Filed 08/19/2026
Effective 10/01/2026
Agency Contact: Nicole Learned (916) 263–1336

Commission on Peace Officer Standards and Training
File # 2026–0709–04
POST Public Safety Dispatcher's Basic Course

This regular rulemaking action by the Commission on Peace Officer Standards and Training ("POST") revises the Public Safety Dispatchers' Basic Course by establishing a uniform modular delivery format in addition to the existing standard course format.

Title 11
Amend: 1015, 1018
Filed 08/20/2026
Effective 04/01/2027
Agency Contact:
Michelle Daubner (916) 227–4827

Commission on Teacher Credentialing
File # 2026–0709–02
Basic Skills Requirement

In this action, the Commission on Teacher Credentialing removes references to the California Basic Education Skills Text and the basic skills requirement for credentials in response to Senate Bill (SB) 153 (Chap. 38, Stats 2024)'s exemption for people with a bachelor's degree (or higher degree) earned a regionally accredited college or university.

Title 05
Amend: 80021, 80021.1, 80022, 80023.2, 80025, 80025.1, 80025.2, 80025.3, 80033, 80036.4, 80037, 80038, 80048.3.1, 80048.3.2, 80048.8, 80048.9, 80048.9.1, 80048.9.2, 80048.9.4, 80049, 80050, 80053, 80054, 80054.1, 80055.1, 80055.2, 80061.1, 80071.4, 80413, and 80413.3
Filed 08/20/2026
Effective 10/01/2026
Agency Contact:
Christina Villanueva (916) 327–8697

Commission on Teacher Credentialing
File # 2026–0710–01
Adding Supplemental and Subject Matter Authorizations

In this regular rulemaking action, the Commission on Teacher Credentialing adds additional methods for adding supplemental subject matter authorizations. The Commission also adds definitions applicable to the art and dance supplementary authorizations.

Title 05
Amend: 80057.5, 80089, 80089.1, 80089.2, 80089.3, 80089.4
Filed 08/19/2026
Effective 10/01/2026
Agency Contact:
Christina Villanueva (916) 327–8697

Emergency Medical Services Authority
File # 2026–0708–01
Emergency Medical Technician Basic Scope of Practice — Ondansetron

This action by the Emergency Medical Services Authority amends the basic scope of practice for emergency medical technicians (EMTs) to add ondansetron to the list of medications that are authorized to be administered by an EMT.

Title 22
Amend: 100066.02
Filed 08/19/2026
Effective 08/19/2026
Agency Contact:
Ashley Williams (916) 591–3266

California Institute for Regenerative Medicine
File # 2026–0713–03
CIRM Award Management Policy

This California Institute for Regenerative Medicine (CIRM) resubmittal action adopts an award management policy to manage stem cell research related grants, establishes reporting requirements, application review processes, award terms and conditions, responsibilities for the payment and use of grant funds, record keeping requirements, and consequences for compliance failures.

Title 17
Adopt: 100505
Filed 08/24/2026
Effective 10/01/2026
Agency Contact: C. Scott Tocher (415) 740–8735

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.