



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. COMMISSION ON STATE MANDATES

The Commission on State Mandates (Commission) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Commission has not scheduled a public hearing for this proposed action. However, if it receives a written request for a public hearing from any interested person or their authorized representative no later than 15 days before the close of the written comment period, by January 15, 2024, the Commission will conduct a public hearing on this proposed action on March 22, 2024, and will notify all persons of the date, time, and location of the hearing pursuant to Government Code section 11346.8(a).

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The comment period closes on **January 29, 2024**. The Commission will only consider written comments received at the Commission offices by that time. Commenters are strongly encouraged to submit their written comments electronically, if possible (to prevent the spread of COVID-19), via the Commission website “dropbox” at: <https://www.csm.ca.gov/dropbox.shtml>. Written comments may also be submitted to:

Jill Magee, Program Analyst
 Commission on State Mandates
 980 Ninth Street, Suite 300
 Sacramento, CA 95814
 Phone: (916) 323–3562

AUTHORITY AND REFERENCE

Government Code section 17527(g) authorizes the Commission to adopt the proposed regulations. Ref-

erence citations: Government Code sections 11123, 11346.4, 11347, 11347.1, and 17500 et seq.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commission is a seven-member quasi-judicial body created by the Legislature to resolve disputes regarding the existence of state-mandated local programs (Government Code section 17500 et seq.) and to hear matters involving county applications for a finding of significant financial distress (Welfare & Institutions Code, § 17000.6).

The purpose of this rulemaking is to: (1) add new formatting requirements for accessibility of new filings and written materials filed with the Commission; (2) clarify that firms or organizations may be a party’s designated representative; (3) clarify the Commission’s regulation on holding teleconferenced meetings; (4) delegate authority to the executive director to deem incomplete requests to review claiming instructions and notices of intent to join a consolidated incorrect reduction claim, withdrawn; (5) fix incorrect citations, and add or remove authority and reference citations; and (6) make minor, non-substantive edits and corrections.

Therefore, the Commission proposes revised language and citations in Articles 1, 3, 4, 5, and 7 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5, Sections 1181.2, 1181.3, 1181.13, 1183.1, 1183.5, 1183.6, 1184.1, 1185.4, 1185.6, 1187.5, 1187.7, and 1187.8 with a proposed effective date of July 1, 2024, if no public hearing is requested, or October 1, 2024, if a public hearing is requested.

Anticipated Benefits of the Proposed Regulations

The proposed regulations will result in documents filed with the Commission that are more accessible for people with disabilities; make it easier on parties to work with firms or organizations to represent them in a matter without needing to file a change in representation each time a different member of a designated firm or organization appears on their behalf; clarify the circumstances when the Commission may hold teleconferenced meetings and what statutes authorize them to do so; make the process for dismissing incomplete requests to review claiming instructions or notices of intent to join a consolidated incorrect reduction claim after the party fails to submit a corrected filing consistent with other regulations; correct erroneous citations so the regulations refer to the relevant and current regulations and statutes; and make various minor non-substantive edits for clarity.

Consistency and Compatibility with Existing State Regulations

After conducting a review of existing regulations, the Commission has concluded that California Code

of Regulations, title 2, sections 1181.1 et seq., are the only regulations concerning the Commission's process. Therefore, the proposed regulations are consistent and compatible with existing state regulations.

DESCRIPTION OF
PROPOSED REGULATIONS

I. Add New Formatting Requirements for New Filings and Written Materials Filed with the Commission.

Section 1181.3 Certification, Filing, and Service of Written Materials and New Filings.

The proposed amendments amend section 1181.3 to add a new subdivision (c)(1) that imposes formatting requirements for new filings and written materials filed with the Commission for purposes of accessibility; rename section 1181.3 to reflect the additional formatting regulations; reorder and amend the existing subdivisions (c)(1), (c)(2) and (c)(3) to reflect the addition of the new language in subdivision (c)(1); and add Government Code section 7405, which requires state entities to comply with the accessibility requirements of section 508 of the Rehabilitation Act of 1973 and part 1194 of Title 36 of the Federal Code of Regulations, as a reference to the proposed regulations.

II. Allow Firms or Organizations to Be a Party's Representative.

Section 1181.2 Definitions; and 1187.8 Representation at Hearings.

The proposed amendments add language to sections 1181.2(l) and 1187.8(a) and (b), clarifying that a party's designated representative can be a firm or organization, rather than just a single individual, and that when a firm or organization is the designated representative, any member of the firm or organization may act as the party's representative without requiring the party file a new authorization. This will help to streamline the process for the claimants.

III. Clarification of Teleconferencing Regulation

Section 1181.13 Commission Meeting by Teleconference.

The proposed amendment adds language to section 1181.13 clarifying that besides holding teleconferences when the Commission is unable to have a quorum meet in person, the Commission may also hold teleconferences where a quorum meets in person at the same publicly accessible teleconference location but additional members participate remotely from remote locations not accessible to the public, as is authorized by Government Code section 11123.2. The amendment also adds Government Code section 11123.2 to the references cited for this regulation. This clarifies the circumstances in which the Commission may hold

a teleconferenced meeting and what statutes allow it to do so.

IV. Delegate Authority to Deem Incomplete Filings Have Been Withdrawn to the Executive Director.

Section 1184.1 Review of Office of State Controller Claiming Instructions; and Section 1185.4 Joining a Consolidated Incorrect Reductions Claim.

The proposed amendments amend sections 1184.1(d) and 1185.4(c) to delegate to the executive director the authority to deem an incomplete request to review claiming instructions or notice of intent to join a consolidated incorrect reduction claim withdrawn after the claimant fails to provide a corrected request or notice within 30 days of Commission staff notifying the claimant its request or notice did not provide all required information and is considered incomplete, instead of bringing the matter to the Commission to withdraw the claim or request. The proposed regulations make the process consistent with other regulations delegating the authority to the executive director to dismiss test claims and deem incorrect reductions claims withdrawn under the same circumstances.

V. Fix Incorrect Citations and Add or Remove Authority and Reference Citations.

Section 1183.1 Test Claim Filing; Section 1183.5 Executive Director's Authority to Consolidate or Sever Test Claims; Section 1183.6 Review of Completed Test Claim and Preparation of Proposed Decision; Section 1187.5 Evidence Submitted to the Commission; Section 1187.7 Witnesses and Subpoenas; and Section 1187.8 Representation at Hearing.

The proposed amendments fix two erroneous references to repealed Government Code sections in section 1183.1's references note that were intended to be references to Education Code sections with the same numbering; amend sections 1183.5 and 1183.6 to correct two references to mailing lists as described in these regulations that cite to the wrong regulation section; amend section 1187.7(d) to update a citation to the Public Records Act, which has been recently renumbered by the Legislature and is no longer found in the referenced section; and amend the authorities and references cited for sections 1187.5 and 1187.8 to remove repealed Government Code sections and sections that were incorrectly cited as authorities, and to add Government Code sections that give the Commission authority to establish procedures for hearing a specific type of matter or that are implemented, interpreted, or made more specific by these regulations.

VI. Amend Regulations to Make Minor, Non-Substantive Changes.

Section 1183.1 Test Claim Filing and Section 1185.6 Executive Director’s Authority to Consolidate or Severe Incorrect Reduction Claims.

The proposed amendments make minor non-substantive amendments to improve readability to sections 1183.1 and 1185.6.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS RELIED UPON TO DEVELOP REGULATIONS

In developing the proposed changes, the Commission relied on the following documents:

1. Web Content Accessibility Guidelines (WCAG) 2.0, World Wide Web Consortium (W3C), <https://www.w3.org/TR/WCAG20/> (accessed June 27, 2023).
2. PDF Techniques for WCAG 2.0, World Wide Web Consortium (W3C), <https://www.w3.org/TR/WCAG20-TECHS/pdf> (accessed July 5, 2023).
3. What Are Accessible Fonts?, Cam Weller, <https://www.accessibility.com/blog/what-are-accessible-fonts> November 2, 2021 (accessed July 5, 2023).

The Commission also relied upon the statutes and cases cited in the authority and reference sections for the regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on local agencies and school district: 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 non-discretionary cost or savings imposed on 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.

Significant effect on housing costs: None.

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

Results of the Economic Impact Analysis/Assessment

The Commission concludes that the proposal will: (1) not create or eliminate jobs within California; (2) not create new businesses or eliminate existing businesses within California; and (3) not affect the expansion of businesses currently doing business within California.

Small Business Determination

Because the Commission has no jurisdiction over small businesses and small businesses are not parties before the Commission, the proposed regulatory action will have no impact on small businesses.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Jill Magee, Program Analyst
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Telephone: (916) 323-3562
(jill.magee@esm.ca.gov)

The backup contact person for these inquiries is:

Cristina Bardasu, Assistant Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Telephone: (916) 323-3562
(cristina.bardasu@esm.ca.gov)

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 on which the rulemaking is based to Ms. Jill Magee (see contact information above) or download it from the Commis-

sion’s website at <https://www.csm.ca.gov/rulemaking.shtml>.

**AVAILABILITY OF STATEMENT
OF REASONS, TEXT OF PROPOSED
REGULATIONS, AND FULL TEXT OF
DOCUMENTS RELIED UPON**

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the full text of the documents relied upon, and the Commission order to initiate rulemaking proceedings.

Copies may be obtained on the Commission’s website (see below) or by contacting Ms. Jill Magee (see contact information above). All persons on the Commission’s interested persons mailing list will be provided a copy of the rulemaking file by making it available on the Commission’s website and providing notice of how to locate it.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT AND DOCUMENTS
RELIED UPON**

After considering all timely and relevant comments received and holding a public hearing, if necessary, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) and any documents relied upon available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations or documents relied upon to the attention of Ms. Jill Magee (see contact information above). The Commission 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 and any Documents Relied Upon may be obtained by contacting Ms. Jill Magee at the address, phone number, or email address listed above.

**AVAILABILITY OF DOCUMENTS
ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the Full Text of Documents Relied Upon and the text of the regulations in underline and strikeout can be accessed through the Commission’s website at <https://www.csm.ca.gov/rulemaking.shtml>.

**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: East Bay Municipal Utility
District

School for Integrated
Academics and Technologies

STATE AGENCY: California Law Revision
Commission

California Travel and Tourism
Commission

Office of Environmental Health
Hazard Assessment

A written comment period has been established commencing on December 15, 2023 and closing on January 29, 2024. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

The Executive Director of the Commission will review the above-referenced conflict-of-interest codes, proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose

certain investments, interests in real property and income.

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest codes. Any written comments must be received no later than January 29, 2024. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **January 18, 2023**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3050, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m. on January 16, 2023.**

BACKGROUND/OVERVIEW

The Commission and staff are currently reviewing the Commission’s Streamline Settlement Program that was established in May of 2015, with the Enforcement Division’s intent to prosecute violations with limited public harm and allow staff to focus resources on more egregious and intentional violations. Since the adoption of the program, the Streamline Program has since resolved a large percentage of cases before the Commission. In January 2019, the Commission expanded the existing program to include several additional violations² to support the Act. At that time, the Commission delegated the approval authority of these actions to the Chief of Enforcement.

In the January 2021, the Commission adopted and presented a proposed changes to the Streamline Programs that added two more categories of violations to

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² These violations were: Unreported Lobbying Activity, Cash Contribution or Expenditure of \$100 or more, Campaign Bank Account, Committee Naming, Advertising and Mass Mailing Disclosure, Recordkeeping, gift Limit, Slate Mailer Organization Filing Issues, Proper Recusal of a Conflict-of-Interest, Major Donor Notification.

the program.³ The addition to the Tier Two Streamline option was added to include violations that did not qualify for the first tier but would benefit from an expedited resolution.

Staff has since proposed a series of improvements with efforts to expand and adjust the Commission's Streamline Settlement and Warning Letter Programs and include criteria for the Political Reform Education Program ("PREP"), to make the Enforcement Division more effective moving forward and to improve the prosecution of low-level violations.

REGULATORY ACTION

Repeal and Adopt 2 Cal. Code Regs. Section 18360.1 — Eligibility Requirements and Considerations for Campaign Violations — Streamline (Tiers One and Two), Warning Letters and the Political Reform Education Program (PREP).

Repeal and Adopt 2 Cal. Code Regs. Section 18360.2 — Eligibility Requirements and Considerations for Ethics and Lobbying Violations — Streamline (Tiers One and Two), Warning Letters and the Political Reform Education Program (PREP).

Repeal and Adopt 2 Cal. Code Regs. Section 18360.3 — Penalties in Streamline Cases.

In considering Regulations 18360.1 through 18360.3, the Commission may consider any issues pertaining to the revision of the Streamline Settlement Program including, but not limited to, the following:

- Types of violations included in the program.
- Factors for participation in the programs such as mitigating or aggravating circumstances.
- Penalty amount and structure.
- Reformatting the regulations to specify the three new Streamline Program categories of enforcement violations including minor contributions limit violations, Section 84308 violations, and recurring contributions violations.

While not limited to the following, currently proposed amendments that may be considered by the Commission would:

- Modify the population threshold to include smaller committees with campaigns reporting and filing violations.
- Delete the exclusion criteria "Pattern of campaign statement or reports not timely filed."
- Expand minimal public harm criteria with examples in campaign context to help staff understand this critical criterion.
- Remove rigid settlement amounts corresponding to a certain time in the process.

³ These violations were: Major Donor Filers, Behested Payment Reports.

- Remove an exclusion for when a 24-Hour Report that is filed late and might have changed the advertising disclosures for top contributors.
- Include additional violations in Tier Two that would be excluded currently and, to compensate for this change, increase some of the Tier Two penalties.
- Add when a respondent qualifies for PREP.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decision concerning the issue identified above or any related issue.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. None.
Fiscal Impact on State Government. None.
Fiscal Impact on Federal Funding of State Programs. None.

AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE

Section 83116.5, Government Code.

CONTACT

Any inquiries should be made to Dave Bainbridge, Fair Political Practices Commission, 1102 Q St., Suite 3050, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

INTERIOR QUARANTINE HOST LISTS

The Department of Food and Agriculture (Department) proposes to amend Title 3 of the California Code of Regulations (CCR) 3406 Mediterranean Fruit Fly Interior Quarantine, 3424 Bactrocera zonata Interior Quarantine, 3425 Melon Fruit Fly Interior Quarantine, 3429 Sweetpotato Weevil Interior Quarantine,

3441 *Bactrocera correcta* Interior Quarantine, and
3442 Malaysian Fruit Fly Interior Quarantine.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

PUBLIC HEARING

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to 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 regulations to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on January 29, 2024. The Department will consider only comments received at the Department offices by that date or postmarked no later than January 29, 2023. Submit comments to:

Erin Lovig, Senior Environmental Scientist
Supervisor
California Department of Food and Agriculture
Plant Health and Pest Prevention Services
1220 N Street
Sacramento, CA 95814
916.403.6650
Permits@cdfa.ca.gov

Questions regarding the substance of the proposed regulation should be directed to Erin Lovig. In her absence, you may contact Rachel Avila at (916) 698-2947 or rachel.avila@cdfa.ca.gov.

Unless there are substantial changes to the proposed regulations prior to amendment, the Department may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

AUTHORITY

The Department proposes to amend Sections 3406, 3424, 3425, 3429, 3441, and 3442 pursuant to the authority vested by Sections 407, 5301, 5302, and 5322 of the Food and Agricultural Code (FAC).

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 401.5, 407, 5301, 5302, and 5322 of the FAC.

The specific purpose of the proposed amendment of the regulations 3406, 3424, 3425, 3429, 3441, and 3442 will remove the host lists of these species and direct the public to the host lists in the corresponding Eradication Area regulations. No species are being removed or added, the only change is that the Host lists will no longer be double listed within the CCR as they currently are in the Interior Quarantine and Eradication Area regulations. This duplication of the list means two regulations need to be updated when this happens, and in the past some regulations have fallen out of sync as only one was updated.

The Department is proposing to remove one of the duplicates that are applicable to each pest and instead include text that directs the public to a single host list for each pest. By only having the hostlist in one location the potential for this error is eliminated.

EXISTING LAWS AND REGULATIONS

Existing law, FAC Section 401.5, states that the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state.

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 5301, provides that the Secretary may establish, maintain, and enforce such quarantine regulations as they deem necessary to protect the agricultural industry of this state from pests. The regulations may establish a quarantine at the boundaries of this state or elsewhere within the state.

Existing law, FAC Section 5302, provides that the Secretary may make and enforce such regulations as they deem necessary to prevent any plant or thing which is, or is liable to be, infested or infected by, or which might act as a carrier of, any pest, from passing over any quarantine line which is established and proclaimed pursuant to this division.

Existing law, FAC section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in her opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in FAC section 5321.

Existing law, FAC, 5761, provides that the regulations which are adopted pursuant to Article 2 (commencing with Section 5321) of Chapter 5, Part 1 of this division may proclaim any portion of the state to be

an eradication area with respect to the pest, prescribe the boundaries of such area, and name the pest and the hosts of the pest which are known to exist within the area, together with the means or methods which are to be used in the eradication or control of such pest.

Existing law, 5762, provides that any pest with respect to which an eradication area has been proclaimed, and any stages of the pest, its hosts and carriers, and any premises, plants, and things infested or infected or exposed to infestation or infection with such pest or its hosts or carriers, within such area, are public nuisances, which are subject to all laws and remedies which relate to the prevention and abatement of public nuisances.

Existing law, 5763, provides that the director, or the commissioner acting under the supervision and direction of the director, in a summary manner, may disinfect or take such other action, including removal or destruction, with reference to any such public nuisance, which he thinks is necessary.

Existing law, 5764, provides that if an eradication area has been proclaimed with respect to a species of fruit flies and the removal of host plants of such species is involved, the director may enter into an agreement with the owner of such host plants to remove and replace them with suitable nursery stock in lieu of treatment.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

The implementation of these regulations will help prevent potential confusion when the host lists need to be amended in the future. Having functional accurate hosts list will help prevent the spread of pests within California, which will prevent:

- direct damage to the agricultural industry growing host fruits
- indirect damage to the agricultural industry growing host fruits due to the implementation of quarantines by other countries and loss of export markets
- increased production costs to the affected agricultural industries
- increased pesticide use by the affected agricultural industries
- increased costs to the consumers of host fruits
- increased pesticide use by homeowners and others
- the need to implement a state interior quarantine
- the need to implement a federal domestic quarantine

There are no existing, comparable federal regulations or statute.

There are no known specific benefits to worker safety or the health of California residents.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of Sections 3406, 3424, 3425, 3429, 3441, and 3442 and has determined that they are not inconsistent or incompatible with existing state regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Prior to conducting any action authorized by this regulation, the Department shall comply with the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et seq. as amended) and the State CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et seq.).

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

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

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

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The cost impacts are expected to be none and minimal/non-consequential. The Department makes the initial determination that the proposed action will not have a significant, statewide adverse economic impact.

Significant effect on housing costs: None.

Small business determination: The proposed action will not affect small business because compliance activities are currently being performed by existing staff throughout quarantine areas within the state without any impact on small business.

RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT

The Department has concluded that the Sections 3406, 3424, 3425, 3429, 3441, and 3442 amendment (1) will have no significant impact on the creation or elimination of jobs in the state of California, (2) will have no impact on the creation or elimination of businesses within the state of California, (3) will have no impact on the expansion of businesses within the state of California, (4) is expected to benefit the health and welfare of California residents, (5) is expected to benefit the state's environment, and (6) is not expected to harm or benefit workers' safety.

The health and welfare of California residents: The proposed action will benefit the health and welfare of California residents as programmatic delays create a higher risk that the pests could spread into the local environment via the surrounding non-agricultural ecosystems. This leads to increased costs to the consumers of host materials and increased pesticide usage.

The state's environment: The proposed action will benefit the environment as programmatic delays create a higher risk that the pests could spread into the local environment via the surrounding non-agricultural ecosystems.

CONSIDERATION OF ALTERNATIVES

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

The Department invites interested persons to present alternatives during the written comment period.

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

The Department has prepared an initial statement of reasons for the proposed action, and has made available all the information upon which its proposal is based and the express terms of the proposed action. The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/plant/Regulations.html). A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information

on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After the comment period and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. 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 the agency officer named herein.

**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

The Department of Food and Agriculture (Department) proposes to revise Title 3 of the California Code of Regulations (CCR) Section 3591.2 pertaining to the Oriental Fruit Fly (OFF) Eradication Area.

PUBLIC HEARING

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulations to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on January 29, 2024. The Department will consider only comments received at

the Department offices by that date or postmarked no later than January 29, 2024. Submit comments to:

Erin Lovig, Senior Environmental Scientist
Supervisor California
Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
Permits@cdfa.ca.gov
916.403.6650
916.651.2900 (FAX)

Questions regarding the substance of the proposed regulation should be directed to Erin Lovig. In her absence, you may contact Dean Kelch at (916) 261–9252 or dean.kelch@cdfa.ca.gov, FAX number (916) 651–2900.

Unless there are substantial changes to the proposed regulations prior to adoption, the Department may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

AUTHORITY

The Department proposes to amend Section 3591.2 pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5761, 5762, 5763 and 5764 of the Food and Agricultural Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The specific purpose of amending California Code of Regulations (CCR) 3591.2 Oriental Fruit Fly Eradication Area is to expand the eradication area for the Oriental fruit fly (OFF) in California to include Fresno County. This will allow targeted actions for eradication of OFF in Fresno County, if necessary, and reduce the chance of allowing natural and artificial dispersal and the subsequent spread of the pest in California. Any necessary eradication and quarantine actions taken by the Department will be in cooperation with the USDA and the affected county agricultural commissioners.

EXISTING LAWS AND REGULATIONS

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reason-

ably necessary to carry out the provisions of this code that the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 5321, provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication.

Existing law, FAC Section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in her opinion necessary to circumscribe and exterminate or prevent the spread of any pest that is described in FAC Section 5321.

Existing law, FAC Section 5761, provides that the Secretary may proclaim any portion of the state to be an eradication area with respect to the pest, prescribe the boundaries of such area, and name the pest and the hosts of the pest which are known to exist within the area, together with the means or methods which are to be used in the eradication or control of such pest.

Existing law, FAC Section 5762, provides that the Secretary may proclaim any pest with respect to which an eradication area has been proclaimed, and any stages of the pest, its hosts and carriers, and any premises, plants, and things infested or infected or exposed to infestation or infection with such pest or its hosts or carriers, within such area, are public nuisances, which are subject to all laws and remedies which relate to the prevention and abatement of public nuisances.

Existing law, FAC Section 5763, provides that the Secretary, or the commissioner acting under the supervision and direction of the director, in a summary manner, may disinfect or take such other action, including removal or destruction, with reference to any such public nuisance, which he thinks is necessary.

Existing law, FAC Section 5764, provides that if an eradication area has been proclaimed with respect to a species of fruit flies and the removal of host plants of such species is involved, the director may enter into an agreement with the owner of such host plants to remove and replace them with suitable nursery stock in lieu of treatment.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

This regulation will benefit the nuts, dates, and berries (nursery, fruit for domestic use and exports, packing facilities) and the environment (urban landscapes) by expanding the geographic scope of an eradication program to prevent the artificial spread of the OFF over short and long distances.

This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

There is no existing, comparable federal regulations or statute regulating the intrastate movement of OFF.

There are no known specific benefits to worker safety or the health of California residents.

EVALUATION OF INCONSISTENCY/
INCOMPATIBILITY WITH EXISTING
STATE REGULATIONS

The Department considered any other possible regulations addressing OFF, and it found that these are the proposed amendments are the only regulations dealing with this subject, and the Department is the only State agency which can designate these eradication areas for plant pests. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of Section 3591.2 and has determined that it is not inconsistent or incompatible with existing state regulations.

CALIFORNIA ENVIRONMENTAL
QUALITY ACT (CEQA)

Prior to conducting any action authorized by this regulation, the Department shall comply with the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et seq. as amended) and the State CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et seq.).

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: Compliance activities are currently being performed by existing state staff throughout quarantine areas within the State. The Department is currently monitoring for fruit flies, and thus there is no change to the cost due to these regulations. The Department has determined that no savings or increased costs to any state agency and no costs or savings in federal funding to the State will result from the amendment of Section 3591.2. The amendment of this regulation would have no fiscal impact on the Department.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

Other nondiscretionary cost or savings imposed on local agencies: None.

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

Cost impacts on a representative private person or business: The amendment of Section 3591.2 will provide authority for the Department to conduct eradication activities against OFF in Fresno County and there are no known private sector cost impacts. The agency is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The cost impacts are expected to be none and minimal/non-consequential. The Department makes the initial determination that the proposed action will not have a significant, statewide adverse economic impact.

Significant effect on housing costs: None.

Small business determination: The proposed action will not affect small business because compliance activities are currently being performed by existing state staff throughout quarantine areas within the State without any impact on small business.

RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT

The Department has concluded that the Section 3591.2 amendment (1) will have no significant impact on the creation or elimination of jobs in the State of California, (2) will have no impact on the creation or elimination of businesses within the State of California, (3) will have no impact on the expansion of businesses within the State of California, (4) is expected to benefit the health and welfare of California residents, (5) is expected to benefit the state's environment, and (6) is not expected to benefit workers' safety.

The health and welfare of California residents: The proposed action will benefit the health and welfare of California residents by preventing increased costs to the consumers of host materials and increased pesticide usage.

The state's environment: The amendment of this regulation benefits the environment (urban landscapes) by providing the Department an eradication program to prevent the artificial spread of the OFF over short and long distances.

CONSIDERATION OF ALTERNATIVES

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

vate persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present alternatives during the written comment period.

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

The Department has prepared an initial statement of reasons for the proposed action, and has made available all the information upon which its proposal is based and the express terms of the proposed action. The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/plant/Regulations.html). A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After the comment period and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. 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 the agency officer named herein.

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

SUBSTANTIVE CHANGE APPROVAL

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary Education (hereinafter “Bureau”), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest. The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this Notice.

Written comments, including those sent by mail, facsimile, or email to the addresses listed under *Contact Person* in this Notice, must be received by the Bureau at its office no later than 5:00 p.m. on Tuesday, January 30, 2024, or must be received by the Bureau at the hearing, if one is held. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE CITATION

Authority cited: Sections 94803 and 94895 of the Education Code.

References cited: Sections 94893, 94894, 94895, 94896, and 94930.5 of the Education Code.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

In 2021 the legislature passed, and the Governor signed, SB 802 (Roth, Chapter 552, Statutes of 2021). Education Code section 94894, which defines what a “substantial change” that requires Bureau pre-approval is, was amended to add four new provisions requiring institutions to apply for approval. The four changes that an institution must now seek Bureau approval for are:

- An increase or decrease of 25 percent or more in the number of clock hours or credit hours required for successful completion of the program;
- Participation in federal student financial aid programs authorized by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Section 1070 et seq.);
- A change in the academic measurement of an educational program from clock hours to credit hours;
- A change in the distance education learning management system.

The proposed regulations will enact the fourth of the added definitions, a change in the distance education learning management system, while the other three were addressed in prior regulatory proposals. The proposed regulation directs institutions seeking to apply for a substantive change in the distance education learning management system to fill out the existing Substantive Change in Method of Instruction Delivery form, (Application for Significant Change in Method of Instructional Delivery or Change in Distance Education Learning Management System (Form INS rev. 8/23) (revised August 2023)) which is being revised in this proposal and is incorporated by reference.

Anticipated Benefits of Proposal

The specific benefit anticipated from the proposed regulation is to have the Bureau’s regulations conform to existing statutory language. The terms of SB 802 became effective on January 1, 2022, and in order to implement the law the Bureau must provide institutions with guidance on the proper way to apply for pre-approval for the newly defined substantive changes and provide institutions with forms that give the Bureau the information it needs to properly decide whether to approve the changes or not.

Consistency and Compatibility with Existing State Regulations

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

Fiscal Impact Estimates

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

Costs: The Bureau estimates 14 applications per year (six from accredited institutions and eight from unaccredited institutions). The Bureau estimates (absorbable) workload costs ranging from \$8,977 to \$10,033 per year and up to \$88,150 over a ten-year period.

The Bureau notes, year-one includes one-time implementation workload costs to update the notification forms and post them on the Bureau’s website.

Revenues: Approximately \$5,500 in additional revenue will be collected by the Bureau per year, coming from 6 additional applications from accredited institutions at \$250 per application, and 8 applications from unaccredited institutions at \$500 per application.

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact: The Bureau estimates that each year 6 accredited institutions and 8 unaccredited institutions will have to file with the Bureau because of a change in their Distance Education Learning Management System, which will impose filing fees and workload costs. Accredited institutions file a shorter form and pay a smaller filing fee than unaccredited schools, because they are reviewed and approved by an accrediting agency and therefore require less oversight than unaccredited institutions.

The Bureau estimates that the 6 accredited schools filing with the Bureau per year will each have \$75 in workload costs, with an additional cost of \$250 to file the form with the Bureau, for a total of \$325. An estimated 8 unaccredited institutions filing per year will have an estimated cost to fill out the form of \$400, with a filing fee of \$500, for an estimated cost of \$900 per institution. This will produce an economic impact of \$9,150 per year, for a cumulative total of \$91,500 over a ten-year period.

Impact on Jobs/New Business: None.

Cost Impact on Private Person or Business: Based on recent experience, the Bureau does not believe that there will be many institutions submitting applications for the substantive change due to a change in their distance education learning management system.

The Bureau estimates 14 institutions will file an application for a Substantive Change in Distance Education Learning Management System per year. An estimated six accredited institutions will submit an application each year, with a workload cost of \$75 (one and a half hours of workload at \$50 per hour) and an application fee of \$250 for a total economic impact of \$325 per institution. An estimated 8 unaccredited institutions will submit an application each year, with a workload cost of \$400 (8 hours of work at \$50 per hour) and an application fee of \$500 for a total economic impact of \$900 per institution.

The total economic impact will be \$9,150 per year and up to \$91,500 over a ten-year period.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations will not affect small businesses. The reporting requirement will affect very few businesses and the cost will be small.

Business Reporting: The proposed regulations do not require a report to be made.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

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

Benefits of Regulation:

The proposed regulation will benefit the health and welfare of California residents by bringing the Bureau to be into compliance with the CEC by allowing institutions to report a newly enacted addition to the list of Substantive Changes to the Bureau. This proposal is not anticipated to benefit worker safety or the state's environment.

Economic Impact Declaration

The Bureau for Private Postsecondary Education declares that this regulation proposal 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.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of reasons for the proposed action and has available all information upon which the proposal is based.

TEXT OF PROPOSAL

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

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

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

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

CONTACT PERSON

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

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

The backup contact person is:

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

Website Access:

The Bureau's website is: <http://bppe.ca.gov>. Materials regarding this proposal can be found at <http://bppe.ca.gov/lawsregs/current.shtml>. An archive of the Bureau's prior regulatory actions can be found at <http://bppe.ca.gov/lawsregs/archive.shtml>.

**TITLE 5. DEPARTMENT OF
EDUCATION/STATE SUPERINTENDENT
OF PUBLIC INSTRUCTION**

**ELIGIBILITY AND PRIORITY IN THE
STATE PRESCHOOL PROGRAM**

NOTICE IS HEREBY GIVEN that the State Superintendent of Public Instruction (SSPI) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

The SSPI 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.

PUBLIC HEARING

The California Department of Education (CDE) staff, on behalf of the SSPI, will hold a virtual public hearing at 9:00 a.m. on January 30, 2024.

Any interested person may participate in the virtual public hearing via a videoconference in Zoom by logging in per the following instructions:

- Click the following link or paste the link into the browser to join the meeting and enter the passcode:

<https://us02web.zoom.us/j/83223181040>

Meeting ID: 832 2318 1040

Passcode: 264192

- To connect with audio only and no video, call one of the following telephone numbers and enter the meeting ID and passcode:

+1 669 900 6833 US (San Jose)

+1 213 338 8477 US (Los Angeles)

Meeting ID: 832 2318 1040

Passcode: 264192

Persons intending to attend the Zoom meeting may check their computers by:

- Clicking on the test link: <https://zoom.us/test>
- For any issues regarding connecting with Zoom, go to <https://support.zoom.us/hc/en-us> for assistance.

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SSPI requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

**REASONABLE ACCOMMODATION FOR
ANY INDIVIDUAL WITH A DISABILITY**

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Amira Elmallah, Early Education Division, 1430 N Street, Suite 3410, Sacramento, CA, 95814 or by telephone at 916–445–7349. It is recommended that assistance be requested at least two weeks prior to the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to:

Lorie Adame, Regulations Coordinator
Administrative Support and Regulations
Adoption Unit
California Department of Education
1430 N Street, Suite 5319
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at 916–322–2549 or by email to regcomments@cde.ca.gov.

Comments must be received by the Regulations Coordinator prior to or on January 30, 2024. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

AUTHORITY AND REFERENCE

Authority: sections 8207, 8208, 8213.5, 8217, 8231, 8242, and 8247, Education Code.

References: sections 8202, 8203, 8205, 8207, 8208, 8210, 8211, 8213, 8213.5, 8217, 8224, 8231, 8232, 8242, 8244, 8245, 8247, 8249, 8252, 8253, 8314, 8332, 48000, 56026, 56040, and 56443, Education Code; Sections 16500.5 and 16506, Welfare and Institutions Code; and 45 Code of Federal Regulations Part 130.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The California Department of Education (CDE) has administered subsidized early education services since the Child Care and Development Services Act (Act) was established in 1980, chapter 2 of part 6 of the Education Code (EC), starting at section 8200 et seq. The intent of the Act is that qualified subsidized early education services be provided to children and families meeting the eligibility criteria established under

the Act. This became known as the Early Education Act in 2021.

The California State Preschool Program (CSPP) as established by EC section 8207, provides three- and four-year-old children with a developmentally appropriate program designed to facilitate their transition to kindergarten. This program includes education, development, health services, social service, nutritional service, parent education and participation, evaluation, and staff development.

On June 30, 2022, the Governor signed the fiscal year 2022–23 Budget Trailer Bill for the Early Education Act, AB 210, which amended EC sections 8205, 8208, 8210, 8211, 8213, and 8244 to change contractor requirements regarding non-countable income, the income threshold for eligibility, eligibility categories, priority for services and serving children with disabilities in the CSPP.

On September 27, 2022, the Governor signed AB 185 (Statutes of 2022, Chapter 571), which amended EC sections 8208, 8210, and 8211 to provide additional clarification on contractor requirements regarding eligibility, priority for services, and serving children with disabilities in CSPP.

AB 210 amended EC sections 8210 and 8211, which made the following changes for CSPP programs effective July 1, 2022:

- All families enrolled, or beginning services, on or after July 1, 2022, shall receive 24 months of eligibility as described in the directive below.
- The income eligibility threshold has been increased from 85 percent of the State Median Income (SMI) to 100 percent of the SMI.
- Three- and four-year-old children are eligible for CSPP services if the child has exceptional needs, as defined in the EC section 8205.
 - Only the children in the family who are children with exceptional needs may be enrolled under this eligibility criteria. Any other child in the family without exceptional needs may be enrolled pursuant to any of the other eligibility criteria.
 - NOTE: Children with exceptional needs are also known as children with disabilities. The language in this MB refers to children with exceptional needs to align with the statutory definition in EC. However, to align more closely with special education law and programs, the CDE encourages contractors to describe these children as children with disabilities at the local level in implementation.
- CSPP priorities for services have been added for children with exceptional needs, Transitional Kindergarten (TK) and kindergarten (K) age children enrolling in extended learning and care

in part-day CSPP, and children from families with incomes that are no more than 15 percent above the income threshold in full-day CSPP.

- The following types of income shall not be included as income for purposes of determining eligibility for CSPP pursuant to EC section 8213:
 - Payments made on behalf of a child pursuant to Section 11460, 11461.3, 11461.36, or 11461.4 of the *Welfare and Institutions Code (WIC)*.
 - Guaranteed income payments received by an individual. “Guaranteed income payments” mean unconditional, recurring, regular cash payments, whether publicly or privately funded, that are intended to support the basic needs of eligible recipients, including, but not limited to, payments provided through pilot programs and projects receiving funding from the California Guaranteed Income Pilot Program (Chapter 16 (commencing with Section 18997) of Part 6 of Division 9 of *WIC*).

AB 185 amended EC sections 8210 and 8211, which made the following changes for CSPP programs effective September 27, 2022:

- CSPP Neighborhood School eligibility, pursuant to EC section 8217, whereby a state preschool site within the attendance boundary of a public elementary school, except a charter or magnet school, where at least 80 percent of enrolled pupils are eligible for free or reduced-priced meals (FRPM), may enroll children that live within the attendance area, is now open for three-year-old children as well as four-year-old children.
- Families with incomes that are up to 15 percent over the income threshold are now eligible for full-day CSPP. No more than 10 percent of the total contract may be children enrolled under this provision. These families are still required to have a need for services.

AB 210 and AB 185 authorized the State Superintendent of Public Instruction (SSPI) to provide guidance and instruction to implement EC sections 8208, 8210 and 8211 through a Management Bulletin (MB) on or before December 1, 2022, pending initiation of the regulatory process, which must occur no later than December 31, 2023. The CDE released guidance on these topics in MB 23–01 and MB 23–02.

On September 30, 2022, the Governor signed SB 1047 (Stats. 2022, chapter 923) and AB 321 (Stats. 2022, chapter 903), which changed priorities for enrollment and eligibility beyond the changes in AB 185. As a result, the following changes took effect January 1, 2023:

- Children from families in which the primary home language is a language other than English, when two or more families have the same income rank on the Income Ranking Table will be prioritized for services.
- Families who have a member of its household who is certified to receive benefits from Medi-Cal, CalFresh, the California Food Assistance Program, the California Special Supplemental Nutrition Program for Women, Infants, and Children, the federal Food Distribution Program on Indian Reservations, Head Start, Early Head Start, or any other designated means-tested government program, as determined by the department, will have categorical eligibility as of January 1, 2023. At this time, the CDE has designated The California Work Opportunity and Responsibility to Kids (CalWORKs) as an additional means-tested government program. Children eligible for services pursuant to this subparagraph shall be prioritized by the income declared on the application for the means-tested government program.

SB 1047 authorized the State Superintendent of Public Instruction (SSPI) to provide guidance and instruction to implement EC section 8213.5 through issuance of guidance of other written directives. The CDE released guidance on these topics in MB 23–01.

On July 10, 2023, the Governor signed SB Number 116 (Stats. 2023, chapter 41) which, among other things, eliminated the third priority for services that gave four-year-old children enrolled in a state-funded transitional kindergarten program priority over three-year-old children and revised the remaining priorities accordingly.

On September 13, 2023, the Governor signed SB 140 (Stats. 2023, chapter 193) and SB 141 (Stats. 2023, chapter 194), which among other things, delineated part-time preschool services as fewer than 25 hours per week and full-time services as 25 hours or more per week for reimbursement purposes and amended the priority language in EC sections 8210 and 8211, changing the reference from children from families whose primary language is a language other than English to dual language learners.

Policy Statement Overview

The objective of these proposed regulations includes fulfilling the Legislature’s directives in AB 210, AB 185, SB 1047, AB 321, SB 140, SB 141, and SB 116 to amend requirements pertaining to eligibility, priority, serving children with disabilities, and non-countable income for purposes of CSPP eligibility for. These proposed regulations will align the regulations to current law ensuring more efficient administration of the CSPP.

Anticipated Benefits of the Proposed Regulation

The benefit of enacting the proposed regulations will align the Title 5 regulations with the statutory changes from AB 210 (Stats. 2022, chapter 62), AB 185 (Stats. 2022, chapter 571), and SB 1047 (Stats. 2022, chapter 923) on eligibility, priority and serving children with disabilities in the California State Preschool Program. This regulation package will further clarify the differences in which regulations are applicable for full-day and part-day CSPP. These regulations will achieve clarity, consistency, and efficient administration of the CSPP for contractors.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

An evaluation of the proposed regulations has determined they are not inconsistent/incompatible with existing regulations, pursuant to Government section 11346.5(a)(3)(D). After conducting a review of any regulations that would relate to or affect this area of law, the SSPI has concluded that these are the only regulations that concern the Eligibility and Priority for the California State Preschool Program.

DISCLOSURES REGARDING THE PROPOSED ACTION/ FISCAL IMPACT

The SSPI has made the following initial determinations:

Other statutory requirements: There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulations or class of regulations.

Mandate on local agencies and school districts: None.

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None.

Cost or savings to any state agency: None.

Other non-discretionary costs or savings imposed on local agencies, including local educational agencies: None.

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

Effect on housing costs: None.

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

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

Report required: The proposed regulations do not require a report to be made.

Effect on small businesses: The proposed regulations would not have an effect on any small business because they are only relevant to California State Pre-school Programs contracted through the CDE.

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

**Benefits of the Regulations to the Health and
Welfare of California Residents, Worker Safety,
and the State’s Environment — Gov. Code Section
11346.5(a)(10):**

The SSPI concludes that it is unlikely that these proposed regulations will: 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Benefits of the Proposed Action: The proposed regulations will benefit children and families in California as they take advantage of high-quality early education programs guided by these proposed regulations. *The proposed regulations are not expected to affect worker safety or the state’s environment.*

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the SSPI must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SSPI, 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 SSPI invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the content of these proposed regulations should be directed to:

Danielle Davis, Child Development Consultant
Early Education Division
California Department of Education
1430 N Street, Suite 3410
Sacramento, CA 95814
Telephone: 916–322–4883
Email: ddavis@cde.ca.gov

Inquiries concerning the regulatory process may be directed to Lorie Adame, Regulations Coordinator, or the backup contact person, Gerri White, Regulations Analyst. The Regulations Coordinator and the Regulations Analyst may be reached by email at regulations@cde.ca.gov or by telephone at 916–319–0860.

**AVAILABILITY OF INITIAL
STATEMENT OF REASONS,
TEXT OF PROPOSED
REGULATIONS AND INFORMATION**

As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the Initial Statement of Reasons (ISOR) and Fiscal and Economic Impact Statement (STD. 399). These documents upon which the proposed action is based may be obtained upon request from the Regulations Coordinator. In addition, this Notice, the text of the proposed regulations and the ISOR may also be viewed on CDE’s website at <http://www.cde.ca.gov/re/lr/rr/>.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the SSPI may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available to the public for at least 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposed regulations. The CDE will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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

You may obtain a copy of the Final Statement of Reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

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

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications highlighted, as well as the Final Statement of Reasons, when completed, and modified text, if any, can be accessed via the CDE’s website at <http://www.cde.ca.gov/re/lr/rr/>.

**TITLE 10. HEALTH BENEFIT
EXCHANGE**

INDIVIDUAL ELIGIBILITY AND
ENROLLMENT REGULATIONS

The California Health Benefit Exchange/Covered California (the Exchange) Board proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Exchange has not scheduled a public hearing on this proposed action. However, the Exchange 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 his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Exchange. The written comment period closes at **5:00 p.m. on January 30, 2024 (45 days after the published date)**. The Exchange will consider only comments received at the Exchange’s office by that time. Submit written comments to:

Faviola Ramirez Adams
Regulations Coordinator
California Health Benefit Exchange
1601 Exposition Boulevard
Sacramento, CA 95815

Comments may also be submitted by facsimile (FAX) at 916–228–4468 or by email to regulations@covered.ca.gov.

AUTHORITY AND REFERENCE

Government Code Section 100504(a)(6) authorizes the Exchange Board to adopt rules and regulations, as necessary. The proposed regulations implement, interpret, and make specific sections 15438 and 100500 of the Government Code; sections 1346.2 and 1366.6 of the Health and Safety Code; and sections 10112.3 and 10112.4 of the Insurance Code. They also implement, interpret, and make specific the policies and requirements of the federal Patient Protection and Affordable Care Act of 2010 (Public Law 111–148), as amended by the federal Health Care and Education Reconciliation Act (Pub. L. 111–152) and Title 45, Code of Federal Regulations (CFR) section 155.10 and following.

SUMMARY OF EXISTING LAWS

Under the federal Patient and Protection and Affordable Care Act (ACA), each state is required, by January 1, 2014, to establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers. State law, the California Patient Protection and Affordable Care Act (Gov. Code, § 100500 et seq.), established the California Health Benefit Exchange within state government, and it specifies the powers and duties of the executive board of the Exchange.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW AND
EFFECT OF THE REGULATIONS

In the spring of 2010, President Obama signed federal healthcare reform legislation, the Affordable Care Act (ACA) (ACA refers to the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152).

The ACA provides the authority and establishes requirements for states to create health insurance exchanges. These Exchanges make Qualified Health Plans (QHPs) available to individuals and/or qualified employers (small businesses; also known as the Small Business Health Options Program or SHOP). Under the ACA states may choose to operate their own exchanges, participate in a regional (multi–state) or subsidiary exchange, or defer to a federally facilitated exchange (an Exchange established and operated by the federal Secretary of Health and Human Services (HHS)). States that choose to operate an exchange may choose to operate an exchange for that provides for the purchase of coverage in the individual market and the establishment of a SHOP, or for the establishment of a SHOP only.

That same year, 2010, California chose to operate its own exchange as the California Legislature enacted and the governor signed, legislation establishing the California Health Exchange (now also known as “Covered California,”) and its governing Board. (Stats. 2010, chapter 659, section 2, (SB 900, [Alquist, Steinberg]); Stats 2010, chapter 655 (AB 1602, [Perez].)

Section 2 of AB 1602 expressed the Legislature’s intent in creating the Exchange and its governing Board as follows: “It is the intent of the Legislature to enact the necessary statutory changes to California law in order to establish an American Health Benefit Exchange in California and its administrative authority in a manner that is consistent with the federal Patient Protection and Affordable Care Act (Public Law 111–148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), hereafter the federal act. In doing so, it is the intent of the Legislature to do all of the following: Reduce the number of uninsured Californians by creating an organized, transparent marketplace for Californians to purchase affordable, quality health care coverage, to claim available federal tax credits and cost-sharing subsidies, and to meet the personal responsibility requirements imposed under the federal act. (b) Strengthen the health care delivery system. (c) Guarantee the availability and renewability of health care coverage through the private health insurance market to qualified individuals and qualified small employers. (d) Require that health care service plans and health insurers issuing coverage in the individual and small employer markets compete on the basis of price, quality, and service, and not on risk selection. (e) Meet the requirements of the federal act and all applicable federal guidance and regulations.”

Pursuant to the requirements and guidance of state and federal law, these regulations provide definitions, abbreviations and standards for notice (Articles 2, 4); standards for eligibility, eligibility determination and redetermination for Qualified Health Plans (QHP), Advance Payment of Premium Tax Credit (APTC); Cost Sharing Reduction (CSR); and termination of coverage (Article 5); and an appeal process, including notice, eligibility pending appeal, informal resolution, hearing requirements, and an expedited appeal procedure (Article 7).

OBJECTIVES

The broad objectives of this proposed regulatory action are to:

- Provide structure for the Exchange and give predictability and clear standards to the public and qualified health plan issuers.

- Specifically provide the public with clear standards and eligibility requirements to qualify for federal tax subsidies through the Exchange.
- Establish the criteria and process for eligibility determination, enrollment, and disenrollment of enrollees and potential enrollees in the Exchange.
- Establish a fair and efficient appeals process for prospective and current enrollees of the Exchange. More specifically, this action creates clear guidelines for the public to request and receive a fair hearing.
- Put California in compliance with the federal act.
- Allow the Exchange to administer the ACA systematically and predictably for the public on an ongoing basis through eligibility determination, enrollment, and disenrollment procedures.
- Reduce health care costs and provide increased and quality health care to the public in California.

BENEFITS

Anticipated benefits including nonmonetary benefits to the protection of public health and safety, worker safety, the environment, the prevention of discrimination, or the promotion of fairness or social equity, from this proposed regulatory action are as follows:

- Making quality health care available to all Californians.
- Providing structure for the Exchange to give predictability and clear standards to the public and qualified health plan issuers now and into the future.
- Providing the public with clear standards and eligibility requirements to qualify for federal tax subsidies through the Exchange.
- Establishing the criteria and process for eligibility determination, enrollment, and disenrollment of enrollees and potential enrollees in the Exchange.
- Establishing an appeal process for prospective and current enrollees of the Exchange and thereby providing due process to applicants denied insurance or with other appealable rights. More specifically, this action includes clear guidelines for the public to request and receive a fair hearing.
- Aligning California’s regulations with the federal act and complying with state law.
- Reducing health care costs for Californians.
- Providing increased health care access to the public in California.
- And ultimately, helping to save lives and increase the health of the public in California.

**EVALUATION OF
CONSISTENCY AND COMPATIBILITY**

The Exchange has evaluated whether the proposed regulations are inconsistent or incompatible with existing state regulations. This evaluation included a review of the laws that regulate the Exchange and specifically those statutes and regulations related to health insurance. Exchange staff also conducted an internet search of other state agency regulations.

Several California statutes and regulations govern health insurance. The Exchange has made its best effort to conform its regulations to State law and does not know of any State statutes or regulations conflicting with these proposed regulations. Some compatible statutes, such as the Health and Safety Code Section 1399.849 and the Insurance Code Section 10965.3, provide additional requirements that affect the Exchange’s proposal as noted throughout this document and the proposed regulatory text. Each is compatible with this proposal.

**DOCUMENTS TO BE INCORPORATED
BY REFERENCE**

None.

JUSTIFICATION FOR DUPLICATION

These proposed regulations were developed with significant stakeholder engagement to implement and clarify the mandates of the ACA and the requirements of the federal regulations. These regulations duplicate texts from the U.S. Department of Health and Human Services’ (HHS) regulations in 45 C.F.R. Part 155 related to the Exchange establishment standards and other related standards under the ACA and 45 C.F.R. Part 156 related to the health insurance issuer standards under the ACA, including standards related to the Exchanges.

**MATTERS PRESCRIBED BY STATUTE
APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS**

None.

**MANDATE ON LOCAL AGENCIES AND
SCHOOL DISTRICTS**

None. The Executive Director of the California Health Benefit Exchange has determined that this proposed regulatory action does not impose a mandate on local agencies or school districts.

FISCAL IMPACTS

Cost to Any Local Agency or School District Which Must Be Reimbursed Pursuant to Government Code Section 17500 et seq.

None. This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Costs or Savings to State Agencies

There will be no costs or savings in federal funding to the state. The proposal results in additional costs to the California Health Benefit Exchange, which is currently financially self-sustaining and is not funded by federal grant money. The proposal does not result in any costs or savings to any other state agency.

Other Nondiscretionary or Savings Imposed on Local Agencies

None. This proposal does not impose other nondiscretionary cost or savings on local agencies.

Costs or Savings in Federal Funding to the State

There will be no costs or savings in federal funding to the state. The proposal results in additional costs to the California Health Benefit Exchange, which is currently financially self-sustaining and is not funded by federal grant money. The proposal does not result in any costs or savings to any other state agency.

Significant Effect on Housing Costs

None.

Effect on Small Business

This proposal may impact small business with whom the Exchange contract to accomplish the goals and objectives of the regulations herein proposed.

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

Covered California makes an initial determination that this proposal will not have a significant, statewide adverse economic impact affecting businesses, either directly or indirectly, including the ability of California businesses to compete with businesses in other states.

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

The agency is not aware of any cost impacts that a representative private person or business would nec-

essarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT (EIA)

1. The Creation or Elimination of Jobs Within the State of California

The implementation of these regulations is not expected to create or eliminate any jobs within the State of California.

2. The Creation of New Businesses or the Elimination of Existing Businesses within the State of California.

These proposed regulations are not expected to create or eliminate any new business within the State of California.

3. The expansion of businesses within the State of California.

These proposed regulations are not expected to expand any business within the State of California.

4. Competitive advantages or disadvantages for businesses currently doing business within the state

When comparing the competitive advantage of businesses outside of California to those in California, no direct impact is projected.

5. Benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state’s environment and quality of life, among any other benefits identified by the agency

The proposed regulations will benefit California residents who apply for health benefits through the Exchange. It will make quality health care available to all Californians and provide the public with clear standards and eligibility requirements to qualify for federal tax subsidies. It will benefit the public by clarifying the criteria and process for eligibility determination, enrollment and disenrollment, and an appeal process.

CONSIDERATION OF ALTERNATIVES

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

The Exchange 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

Inquiries concerning the proposed administrative action may be directed to:

Faviola Ramirez Adams
Regulations Coordinator
California Health Benefit Exchange
1601 Exposition Boulevard
Sacramento, CA 95815
Telephone: (916) 228–8668

The backup contact person for these inquiries is:

Bahara Hosseini
Attorney IV
California Health Benefit Exchange
1601 Exposition Boulevard
Sacramento, CA 95815
Telephone: (916) 228–8486

Please direct copies of the proposed text 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 Faviola Ramirez Adams at the above contact information.

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

The Exchange 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 of this notice is published in the Notice Register, the rulemaking file will consist of this notice, the proposed text of the regulation and the Initial Statement of Reasons. There is currently no other information upon which the proposed rulemaking is based. Copies may be obtained by contacting Faviola Ramirez Adams at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding a hearing, if requested, and considering all timely and relevant comments received, the Exchange may adopt the proposed regulations substantially as described in this notice. If the Exchange makes modifications which are sufficiently related to the originally proposed text, it will make the modi-

fied text available to the public at least 15 days before the Exchange adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Faviola Ramirez Adams at the address indicated above. The Exchange 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 Faviola Ramirez Adams at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons and the proposed text of the regulations in underline and strikethrough can be accessed through our website at www.healthexchange.ca.gov/regulations.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

RESTRICTED HOUSING UNITS

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to adopt, amend, and/or repeal several sections within Title 15, Division 3, Chapter 1, of the California Code of Regulations, regarding Restricted Housing Units.

PUBLIC HEARING

Date and Time:

February 2, 2024 — 10:00am to 11:00am

Place:

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

Purpose:

To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period begins **December 15, 2023**, and closes on **February 2, 2024**. 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, call the program contact person listed below.

CONTACT PERSONS

Primary Contact

Josh Jugum
Telephone: (916) 445–2266
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283–0001

Back-Up

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

Program Contact

Crystal Alcazar
Telephone: (916) 322–1164
Division of Adult Institutions

AUTHORITY AND REFERENCE

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

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

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of

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

INFORMATIVE DIGEST

The main objective of this regulatory action is to reduce the use of segregated confinement. Restricted Housing will be used in limited situations for inmates who engage in violence or have serious safety concerns. This regulatory action will allow for more effective and efficient use of the department's resources, which will result in a streamlined process for the inmates to receive enhanced services such as medical and mental health treatment. Regulations will include enhanced rehabilitative programming to promote a positive behavioral model and aid in rehabilitation efforts.

Circumstances may occur during an inmate's incarceration that require changes in their housing and status, wherein they are no longer safe to be housed or to attend program within the inmate general population. CDCR has historically utilized Administrative Segregation Unit (ASU) to remove inmates from an institution's General Population (GP) facility when the inmate presents an immediate threat to the safety of the inmate or others, endangers institution security or jeopardizes the integrity of an investigation of an alleged serious misconduct, criminal activity, or the safety of any person.

As established in existing section 3335, Administrative Segregation placement is accomplished by confinement in a designated ASU or, in an emergency, to any single cell unit capable of providing secure segregation consistent with the inmates' case factors. Not every institution has a designated segregated housing unit that can accommodate all case factors, thus, movement between institutions may be necessary to provide for appropriate segregated housing.

ASU is designated as temporary short-term housing. During the initial placement in ASU, privileges and the amount of property an inmate is allowed are limited compared to non-segregated housing. It is also less than those received by inmates who are housed in Security Housing Unit (SHU) or inmates in ASU who have a SHU term assessed and imposed.

Upon placement in Administrative Segregation, an initial Institution Classification Committee (ICC) hearing is conducted to determine if the inmate continues to pose a threat to the safety of a person and security of the institution. Inmates who violate criminal or administrative statutes are issued a Rules Violation Report which is carefully reviewed for assessment of a SHU Term. SHU terms are calculated based on the seriousness of the Rules Violation Report (RVR),

considering aggravating and mitigating factors. Upon assessment of the SHU term, the inmate is transferred to a SHU.

The SHUs are designated for extended-term programming of inmates not suited for housing in the general population. They are specialized programming units with established placement criteria to include an assessed determinate or administrative SHU term. Placement into these units requires approval by a Classification Staff Representative (CSR) or by the Departmental Review Board (DRB) based on classification committee recommendations and referrals.

Additionally, the proposed regulations will replace the term, "segregation" with "restricted." The connotation associated with the word "segregation" or any variation thereof is harmful and does not accurately describe the reasons for restricted confinement. Inmates placed in restricted housing will continue to have access to rehabilitative and education programs and mental health and healthcare services, as well as out-of-cell recreation time.

In addition to reducing the use of segregated confinement, another primary objective of these proposed regulations is to better serve the inmate population in restricted housing by reducing the amount of transfers, standardizing access to property and privileges, creating new access to rehabilitative programs and education, clinically approved treatment therapies and skill building activities as well as increasing out of cell time. This will be beneficial for inmates as participation in rehabilitative programming may result in less time in restricted housing and assist in a successful transition to less restrictive housing and, upon release, to society.

POLICY STATEMENT OVERVIEW

This rulemaking action will:

- Remove several offenses from the SHU term assessment chart (renamed to RHU Term Matrix). The remaining offenses on the RHU term matrix are violent offenses or weapon-possession offenses.
- Reduce the amount of time assessed for the remaining offenses on the RHU Term Matrix.
- Replace the term, "segregation" with "restricted." The connotation associated with the word "segregation" or any variation thereof is harmful and does not accurately describe the reasons for restricted confinement.
- Discontinue mitigating and aggravating factors in determining time to serve in restricted housing. Currently, the amount of time applied for the mitigating or aggravating factors is subjective, and therefore does not establish consistent time to serve.

- Exclude consecutive SHU terms. Currently, determinate terms can be assessed concurrently or consecutively. If an inmate is assessed a consecutive term, they would be required to serve a longer period of time, as one assessed determinate term would have to be completed prior to the next term start date. To reduce the amount of time spent in RHU housing, the department has chosen to eliminate the assessment of consecutive determinate terms.
- Discontinue the Step Down Program (SDP), which certain inmates associated with Security Threat Groups (i.e., gangs) were required to participate in. The length of the SDP is not conducive to the purpose of these proposed regulations, which is to reduce the amount of time spent in restricted housing.
- Increase out-of-cell time for inmates housed in RHU and Restricted Custody General Population.

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The proposed regulatory action will improve the management of inmates in restricted housing and will lessen the number of inmates being placed in restricted housing. The primary rehabilitative focus within the restricted housing population is to promote positive programming. In addition, the proposed regulatory action creates a standardized methodology of operating and implementing restricted housing units, ensuring efficient and successful transition to less restrictive housing. The proposed regulations will also alleviate staff workload by eliminating transfers in between restricted housing. Furthermore, the department anticipates the proposed amendments regarding privileges and property will help to protect the health and welfare of California residents and worker safety, as department staff may experience fewer incidents of violence inside the institution and tension among inmates when inmates are provided equal limitations on property items to incentivize positive behavior.

DOCUMENTS INCORPORATED BY REFERENCE

- CDC Form 114–A1 (Rev. 11/23), Inmate Restricted Housing Profile
- CDC 114–A (Rev. 10/99) Inmate Segregation Record
- Automated Restricted Housing Record (Rev. 11/23)
- Automated Classification Committee Chrono (Rev. 05/19)
- CDC 128–G (10/89) Classification Chrono
- Automated Administrative Segregation Unit Placement Notice (05/19)

- Automated Restricted Housing Unit Placement Notice (11/23)
- Automated RHU Term Computation (11/23)

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING LAWS AND 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 restricted housing of inmates.

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

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

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

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

because the proposed regulations place no obligations or requirements on any business.

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 business because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on worker safety or the state's environment. The proposed regulations may benefit the welfare of California residents by helping to reduce violence in California prisons, and by promoting rehabilitation, which may reduce recidivism.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

TITLE 16. BOARD OF PHARMACY

CONTINUING EDUCATION

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (Board) proposes taking the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments, relevant to the action proposed, in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under *Contact Person* in this Notice, must be received by the Board at its office by January 29, 2024.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or that person's authorized representative, no later than 15 days prior to the close of the written comment period.

The Board may, after holding a hearing if requested and considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified

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

Authority and Reference: Authority: Sections 462 and 4005, Business and Professions Code (BPC). Reference: Sections 462, 4052.3, 4052.8, 4052.9, 4202, 4231, 4232, and 4232.5, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California State Board of Pharmacy (Board) is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, pharmacists, pharmacy interns, and pharmacy technicians. The Board's mandate and mission are to protect the public (BPC section 4001.1).

Existing law, codified in Business and Professions Code (BCP) section 4231, requires a pharmacist to complete thirty hours of continuing education (CE) every two years, and requires CE reporting as part of the license renewal process. Title 16, California Code of Regulations (CCR) section 1732.5 sets forth the CE, and CE reporting, requirements for pharmacists. When applying for license renewal to the Board of Pharmacy, each pharmacist must submit satisfactory proof they have successfully completed thirty hours of approved CE courses in the twenty-four months preceding their renewal application. (16 CCR section 1732.5(a).) Two of those thirty hours "shall be completed by participat[ing] in a Board provided CE course in Law and Ethics." (16 CCR section 1732.5(b).)

Any pharmacist prescribing or furnishing certain specified pharmaceutical treatments, medications, or services is required to complete corresponding specialized CE as part of those thirty hours. Under BPC section 4052.3, any pharmacist furnishing emergency contraception medication is required to complete "at least one hour of approved [CE] on emergency contraception drug therapy." Under BPC section 4052.9, any pharmacist furnishing FDA-approved nicotine replacement products or administering smoking cessation services is required to complete one hour of CE "focused on smoking cessation therapy biennially." Finally, under BPC section 4232.5, any pharmacist prescribing a Schedule II controlled substance is required to have, within the previous four years, completed "an education course on the risks of addiction associated with the use of Schedule II drugs." CCR section 1746.4 implements the requirement that any pharmacist administering vaccines shall, once every two years, complete one hour of CE, from an approved provider,

focused on immunizations and vaccines. CCR section 1746.5 implements the requirement that any pharmacist administering travel medications shall, once every two years, complete two hours of CE (separate from CE in immunizations and vaccines), from an approved provider, focused on travel medicine.

Additionally, existing law, codified in BPC section 4202, establishes the licensure requirements for a pharmacy technician.

Assembly Bill 2194 (Ward, Chapter 958, Statutes of 2022) modified BPC sections 4231 and 4202, effective January 1, 2024, requiring pharmacists and pharmacy technicians, respectively, to complete at least one hour of continuing education in cultural competency during the two years preceding the renewal application. Further, the Board is prohibited from renewing a pharmacist or pharmacy technician license unless the individual has completed the course.

This regulatory proposal will amend 16 CCR section 1732.5. This regulatory proposal will combine the continuing education requirements for pharmacists, which are currently spread across numerous statutes and regulations, into one regulation section. This change will make it easier for pharmacist license renewal applicants to locate the requirements they must meet. This regulatory proposal will eliminate the sentence "Pharmacists renewing their licenses which expire on or after July 1, 2019, shall be subject to the requirements of this subdivision" from section 1732.5(b), ensuring all pharmacist license renewal applicants meet the requirements of the BPC, implemented in the regulations. This regulatory proposal will also define "Board approved CE course."

This regulatory proposal will adopt a new CCR section 1732.8 regarding license renewal requirements for pharmacy technicians. This regulatory proposal will implement the requirement that pharmacy technicians complete a one-hour cultural competency course, in compliance with BPC 4202. This regulatory proposal will set forth the requirement to retain documentation demonstrating proof of completion of the cultural competency course. This regulatory proposal will also set forth the procedure for issuance of an inactive pharmacy technician license if the cultural competency course is not completed, or if the technician fails to provide proof of completion during an investigation or audit.

Anticipated Benefits of the Proposed Regulations:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents.

Combining the continuing education requirements imposed on pharmacists into one regulation will reduce confusion, will help ensure compliance, and may reduce some of the administrative burden for pharmacists researching continuing education requirements

within pharmacy law, which may in turn increase pharmacist availability to provide patient-centered care. Increasing pharmacist availability is a benefit to the health and welfare of California residents.

This proposal will ensure that pharmacy technicians are aware of the license renewal requirements, which will ensure that pharmacy technicians are appropriately licensed and trained, which benefits patient safety.

Educating pharmacists and pharmacy technicians on cultural competence improves communication between pharmacists/pharmacy technicians and patients, which will reduce medication errors and improve patient safety. Clear communication helps pharmacists and pharmacy technicians ask for and receive accurate medical information, and encourages active dialogue during consultations so that patients and pharmacists/pharmacy technicians can ask questions, correct misunderstandings, and build trust.

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

Consistency and Compatibility with Existing State Regulations:

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

FISCAL IMPACT AND ESTIMATES

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

The proposed regulations do not result in a fiscal impact to the state. The Board currently ensures compliance with its regulation of the pharmacy industry through its continuing education audit program.

The proposed amendments specify CE coursework and fulfillment requirements for licensees as part of license renewal. The regulations do not increase the total number of CE hours required. As a result, the Board does not anticipate an increase in workload or costs.

There will be an increase in the number of continuing education audits completed as a result of the requirement for pharmacy technicians to complete a cultural competency course; however, this fiscal impact is a result of the underlying statute and not this regulatory proposal.

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Mandate Imposed on Local Agencies or School Districts: None.

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

Business Impact:

The Board has made the initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other States. This proposal provides pharmacists and pharmacy technicians with clarifying information regarding continuing education and cultural competency course completion. Pharmacists and pharmacy technicians may have an initial expense to complete the cultural competency course required by BPC sections 4202 and 4231, and they may have a minimal continuing education fee every two years to maintain compliance with the statutes.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

Effect on Small Business:

While the Board does not have, nor does it maintain, data to determine if any of its licensees (pharmacies and clinics) are a “small business”, as defined in Government Code section 11342.610, the Board has determined that the proposed regulatory action will not affect small businesses. The proposed regulations directly impact pharmacists and pharmacy technicians only and do not impact businesses.

Business Reporting Requirements

This regulatory proposal does not require businesses to file a report with the Board.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

Aside from the creation of a new course in cultural competency, which may nominally be considered “new business”, such business will likely be provided by existing course providers and existing staff. Thus, the Board concludes that this proposal will not:

- (1) create jobs within California;
- (2) eliminate jobs within California;
- (3) create new businesses within California;
- (4) eliminate existing businesses within California; and,
- (5) expand businesses currently doing business in the State of California.

This proposal will not create or eliminate jobs or businesses, or expand businesses, within California. This proposal combines several pre-existing statutes and regulations and strikes a confusing sentence from the continuing education provisions for pharmacists. Additionally, this regulatory proposal provides clarity to pharmacy technicians regarding the one-hour cultural competency course they must complete pursuant to BPC section 4202. This regulatory proposal sets forth the requirement to retain documentation demonstrating proof of completion of the cultural competency course. And this regulatory proposal sets forth the procedure for issuance of an inactive pharmacy technician license if the cultural competency course is not completed, or if the technician fails to provide proof of completion, especially during an investigation or audit.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents by eliminating some administrative burdens for pharmacists, increasing the availability of the pharmacists to provide patient-centered care, and ensuring that pharmacy technicians and pharmacists are appropriately licensed and trained, all of which benefits patient safety.

The Board has determined that this regulatory proposal will not impact worker safety or the state's environment, as these changes do not involve worker safety or the environment.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments—relevant to the above determinations—in writing, at the address listed below for the *Contact Person*, during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons

(ISOR), proposed regulatory text, and all the information upon which the proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Pharmacy at 2720 Gateway Oaks Drive, Suite 100, Sacramento, California 95833, or from the Board of Pharmacy's website at http://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

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

CONTACT PERSON

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

Name: Lori Martinez
Address: Board of Pharmacy
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone Number: (916) 518–3100
Fax Number: (916) 574–8618
Email Address:
PharmacyRulemaking@dca.ca.gov

The backup contact person is:

Name: Julie Ansel
Address: Board of Pharmacy
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone Number: (916) 518–3100
Fax Number: (916) 574–8618
Email Address:
PharmacyRulemaking@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board of Pharmacy’s website at: https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

TITLE 16. BOARD OF PHARMACY

OPIOID ANTAGONIST PROTOCOL

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (Board) proposes taking the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments, relevant to the action proposed, in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under *Contact Persons* in this Notice, must be received by the Board at its office by January 29, 2024.

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 that person’s authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing

addressed to the individuals listed under “Contact Persons” in this notice.

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

Authority and Reference: Pursuant to the authority vested by Business and Professions Code (BPC) section 4052.01, the Board proposes amending section 1746.3 in Division 17 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, pharmacists, interns, and pharmacy technicians. The Board’s mandate and mission are to protect the public (BPC § 4001.1).

Existing law at BCP section 4052.01 authorized pharmacists to furnish the opioid antagonist naloxone hydrochloride in accordance with standardized procedures the Board was to implement through regulations.

With the enactment of Senate Bill 1259 (“SB 1259”), BPC section 4052.01 was amended to authorize pharmacists to furnish any Food Drug and Administration (FDA) approved opioid antagonist, not just naloxone hydrochloride. Additionally, the Board and the Medical Board of California (“in consultation with the California Society of Addiction Medicine [(CSAM)], the California Pharmacists Association, and other appropriate entities”) were authorized to develop and approve regulations implementing standardized procedures or protocols pharmacists are to adhere to when furnishing FDA-approved opioid antagonists. These procedures or protocols must include educating the person to whom the opioid antagonist is furnished (regarding opioid overdose prevention, recognition, and response, safe administration of opioid antagonists, potential side effects/adverse events, seeking emergency medical care, and availability of drug treatment programs), and notifying the recipient’s primary care provider—directly, or by updating a patient’s information in a database to which their physician has access.

This regulatory proposal will implement the statute by amending CCR section 1746.3, updating the current

standardized procedures or protocols to regulate the furnishing of any FDA–approved opioid antagonists, not just naloxone hydrochloride. The Board consulted with the California Department of Health Care Services in the development of this proposal. The proposal was provided to CSAM, the Medical Board of California, and the California Pharmacists Association for review prior to approval of the language by the Board. The Board received comments from CSAM and the Medical Board, and neither expressed concerns with the proposed language.

Anticipated Benefits of Proposal

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents.

Implementing this proposal will benefit the health and welfare of California residents by ensuring FDA–approved opioid antagonists are safely furnished. Additionally, implementing this proposal will ensure that the people to whom the opioid antagonists are administered are educated on opioid overdose prevention, recognition, and response, safe administration of opioid antagonists, potential side effects/adverse events, seeking emergency medical care, and availability of drug treatment programs. Finally, implementing this proposal will ensure the patient’s primary care provider is notified—directly, or by updating a patient’s information in a database to which their physician has access—that an opioid antagonist was furnished to the patient, which will aid the physician and patient with current and future care.

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

Evaluation of Consistency and Compatibility with Existing State Regulations

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

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs/Savings to State Agencies or Costs/Savings in Federal Funding to the State: The proposed regulations do not result in a fiscal impact to the state. The regulations do not result in costs or savings in federal funding or to any state agency. This proposal would implement standardized procedures or protocols for the furnishing of any FDA–approved opioid antagonist. The Board does not anticipate additional workload or costs

resulting from the proposed regulations, and if there is any additional workload or costs of implementation, they are the result of current law.

Nondiscretionary Costs/Savings to Local Agencies: None.

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

Mandate Imposed on Local Agencies or School Districts: None.

Significant Effect on Housing Costs: None.

BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other States.

This initial determination is based on the absence of testimony to that effect during the public discussion and development of the proposed amendments to the regulation. Additionally, this proposal would implement standardized procedures or protocols for the furnishing of any FDA–approved opioid antagonist to patients. This would not impact businesses.

Cost Impact on Representative Private Person or Business:

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board concludes that this proposal will not:

- (1) create jobs within California;
- (2) eliminate jobs within California;
- (3) create new businesses within California;
- (4) eliminate existing businesses within California; and,
- (5) expand businesses currently doing business in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents because it will ensure that 1) FDA–approved opioid antagonists are safely furnished, 2) the people to whom the opioid antagonists are furnished are educated on opioid overdose prevention, recognition, and response, safe administration of opioid antagonists, potential side effects/adverse events, seeking emergency medical care, and availability of drug treatment

programs, and 3) the patient's primary care provider is notified—directly, or by updating a patient's information in a database to which their physician has access—that an opioid antagonist was furnished to the patient, aiding the physician and patient with current and future care.

This proposal will not impact worker safety or the state's environment.

Business Reporting Requirements

This regulatory proposal does not require businesses to file a report with the Board.

Effect on Small Business:

While the Board does not have, nor does it maintain, data to determine if any of its licensees (pharmacies and clinics) are a "small business", as defined in Government Code section 11342.610, the Board has determined that the proposed regulatory action will not affect small businesses, as the regulations are implementing standardized procedures or protocols for medical professionals to furnish additional FDA-approved opioid antagonists to patients. Small businesses will not be affected.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments—relevant to the above determinations—in writing, at the address listed below for the *Contact Persons*, during the written comment period, or at the hearing if one is scheduled or requested.

**AVAILABILITY OF INITIAL
STATEMENT OF REASONS AND
RULEMAKING FILE**

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Pharmacy at 2720 Gateway Oaks Drive, Suite 100, Sacramento, California 95833, or from the Board of Pharmacy's website at http://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the persons designated in this Notice as the Contact Persons and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

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

CONTACT PERSONS

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

Name: Lori Martinez
Address: Board of Pharmacy
2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Phone Number: (916) 518-3078
Fax Number: (916) 574-8618
Email Address:
PharmacyRulemaking@dca.ca.gov

The backup contact person is:

Name: Julia Ansel
 Address: Board of Pharmacy
 2720 Gateway Oaks Drive, Suite 100
 Sacramento, CA 95833
 Phone Number: (916) 518–3108
 Fax Number: (916) 574–8618
 Email Address:
PharmacyRulemaking@dca.ca.gov

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 2715, 2786.1, and 2786.6, and to implement, interpret, or make specific BPC sections 2785, 2785.5, 2786, 2786.1, 2786.2, 2786.3, 2786.5, 2786.6 and 2788, the Board is considering amending section 1426 of Article 3, Division 14, of Title 16 of the California Code of Regulations (CCR).

AVAILABILITY OF DOCUMENTS
 ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board of Pharmacy’s website at: https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

INFORMATIVE DIGEST/POLICY
 STATEMENT OVERVIEW

The Board of Registered Nursing (Board) sunset bill, Assembly Bill 2684 (Berman, Chapter 413, Statutes of 2022), updated Business and Profession Code section 2786 to state that an approved school of nursing or nursing program shall meet a minimum of 500 direct patient care clinical hours in a Board–approved clinical setting with a minimum of 30 hours of supervised direct patient care clinical hours dedicated to each nursing area specified by the Board.

**TITLE 16. BOARD OF REGISTERED
 NURSING**

REQUIRED CURRICULUM

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (Board) proposes to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

However, the Board’s regulations at 16 CCR 1426(g)(2), currently state that, with the exception of an initial nursing course that teaches basic nursing skills in a skills lab, 75% of clinical hours in a course must be in direct patient care in an area specified in 16 CCR Section 1426(d) in a board–approved clinical setting.

PUBLIC HEARING

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

Different nursing programs may have a different requirement number of direct patient care hours that their students will complete given the variance in course and unit requirements, resulting in inconsistency as some prelicensure nursing programs provide significantly more direct patient care hours than others.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or email to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office by 5:00 p.m. on Tuesday, January 30, 2024**, or must be received by the Board at the hearing, should one be scheduled.

The Board proposes removing the 75% direct patient care clinical requirement from 16 CCR 1426(g)(2), which will allow prelicensure nursing programs to defer solely to BPC section 2786(a)(2)’s statutory requirement for a program to have a minimum of 500 direct patient care clinical hours with at least 30 hours in each nursing area. This proposal aligns with the Board’s mission to protect and serve the public by ensuring that licensees are receiving the same baseline level of preparation and hands on experience before entering the workforce and are competent and adequately prepared to treat the public.

The Board proposes the following changes:
Amend CCR Title 16 Section 1426 — Required Curriculum

The proposed text would remove the text “With the exception of an initial nursing course that teaches basic nursing skills in a skills lab, 75% of clinical hours in a course must be in direct patient care in an area

specified in section 1426(d) in a board-approved clinical setting.” from 16 CCR 1426(g)(2).

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The Board has determined that this regulatory proposal does not affect worker safety or the state’s environment.

This regulatory proposal benefits the health and welfare of California residents by reducing variance in direct patient care experience amongst the Board’s approved prelicensure nursing programs by ensuring that all students in California are receiving the same baseline level of preparation and hands on experience before entering the workforce. Members of the public will benefit from having competent licensees, who as health care practitioners, are adequately prepared to treat the public.

Evaluation of Consistency and Compatibility with Existing State Regulations

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

Incorporation by Reference

No forms are incorporated by reference in the proposed regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the state: None.

The proposed regulations do not result in a fiscal impact to the state. The Board does not anticipate additional workload or costs resulting from the proposed regulations or costs of implementation are a result of current law.

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Mandate Imposed on Local Agency or School Districts: None.

Cost to any local agency or school district requiring reimbursement pursuant to Government Code Sections 17500 et seq: None.

Significant Effect on Housing Costs: None

BUSINESS IMPACT ESTIMATES

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

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

This regulation will not have a significant adverse economic impact on businesses because the requirement for prelicensure nursing programs to provide students with a minimum number of direct patient care hours was established by state statute, not this rulemaking package.

Cost Impact on Representative Private Person or Business:

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

The requirement for prelicensure nursing programs to provide students with a minimum number of direct patient care hours was established by state statute, not this rulemaking package.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined this regulatory proposal (1) will not create or eliminate jobs; (2) will not create new business nor eliminate existing businesses; (3) will not expand existing businesses in the state of California.

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

Benefits of Regulation

This regulatory proposal will affect the general health and welfare of California residents by:

- Reducing variance in direct patient care experience amongst the Board’s approved prelicensure nursing programs by ensuring that all students in California are receiving the same baseline level of preparation and hands on experience before entering the workforce.

The proposed regulations are not expected to affect worker safety or the state’s environment.

Business Reporting Requirements

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

Effect on Small Business

The Board has determined that there will be no increased costs for small businesses with the proposed regulations because this change only effect prelicensure nursing programs located with education institutions, it does not impact small businesses.

CONSIDERATION OF ALTERNATIVES

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

Interested persons are invited to present statements or arguments orally or in writing relevant to the above determinations at any scheduled hearing or during the written comment period to the Contact Person below.

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

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons, proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice. Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the person designated in the Notice under Contact Person or by accessing the Board's website, www.rn.ca.gov.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

The Board may, after considering all timely and relevant comments, upon its own motion or at the request of any interested party, may thereafter adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such

modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 business days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

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

CONTACT PERSONS

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

Name: Marissa Clark
Address: Board of Registered Nursing
1747 North Market Boulevard, Suite 150
Sacramento, CA 95834
Telephone Number: 916-574-7438
Fax Number: 916-574-7700
Email Address: brn.regulations@dca.ca.gov

The backup contact person is:

Name: Ras Siddiqui
Address: Board of Registered Nursing
1747 North Market Boulevard, Suite 150
Sacramento, CA 95834
Telephone Number: 916-574-7922
Fax Number: 916-574-7700
Email Address: brn.regulations@dca.ca.gov

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process on the Board's website. Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations can be accessed at: <https://www.rn.ca.gov/regulations/proposed.shtml>

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

**CESA CONCURRENCE REQUEST FOR IMPLEMENTATION OF THE SAN JOAQUIN RIVER RESTORATION PROGRAM AND ACCOMPANYING HATCHERY AND GENETIC MANAGEMENT PLAN
2080–2023–020–04
BUTTE, NAPA, YOLO AND FRESNO COUNTIES**

The California Department of Fish and Wildlife (CDFW) received a notice on November 30, 2023, that U.S. Fish and Wildlife Service (Service) has received and enhancement of survival permit (Permit 20571) pursuant to U.S. Code, title 16, Section 1539(a)(1)(A) of the Federal Endangered Species Act (ESA) from the National Oceanic and Atmospheric Administration (NOAA).

NOAA issued Permit 20571 to the Service on September 10, 2018, and issued a letter to extend the expiration date of Permit 20571 (Extension Letter) on November 2, 2023. Permit 20571 authorizes take of Central Valley spring–run Chinook salmon (*Oncorhynchus tshawytscha*), a federally threatened species, for hatchery propagation, research, and enhancement activities at the San Joaquin Conservation Hatchery Facilities, to establish and maintain an experimental population of spring–run Chinook salmon in the San Joaquin River. More specifically, Permit 20571 authorizes the Service to collect, transport, rear, handle, and tag juveniles and eggs from the Feather River Fish Hatchery, as well as wild stocks in Butte Creek and the San Joaquin River, to implement a broodstock program. The Permit also authorizes intentional take of individuals by holding fish as captive broodstock, juvenile rearing and release, and take associated with research, monitoring, and evaluation studies. The proposed project will occur in Butte, Napa, Yolo and Fresno Counties, California.

Spring–run Chinook salmon is designated as a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(2)(C).) Pursuant to California Fish and Game Code section 2080.3, the Service is requesting a determination that Permit 20571 and the associated Extension Letter will further the conservation of the species. If CDFW determines Permit 20571 and the associated Extension Letter will further the con-

servation of the species, no further authorization or approval is necessary under CESA for the Service to take spring–run Chinook salmon as identified in, and in accordance with, Permit 20571.

DEPARTMENT OF FISH AND WILDLIFE

**ENDANGERED SPECIES ACT CONCURRENCE DETERMINATION
NUMBER 2080–2023–018–01**

Project: Nonessential Experimental Population Designation and 4(d) Take Provisions for Reintroduction of Sacramento River Winter–Run Chinook Salmon and Central Valley Spring–Run Chinook Salmon in the McCloud and Upper Sacramento Rivers above Shasta Dam

Location: Shasta and Siskiyou Counties

Background

On August 28, 2023, the Secretary of Commerce published regulations in the Federal Register (88 FR 58511–58521) (50 C.F.R. § 223.301(e) (2023)) for the designation and authorization for release of nonessential experimental populations (NEPs or experimental populations) of Sacramento River winter–run Chinook salmon (*Oncorhynchus tshawytscha*) and Central Valley spring–run Chinook salmon (*O. tshawytscha*) and protective regulations pursuant to section 1533 subdivision (d) of the federal Endangered Species Act (ESA) of the McCloud River and Upper Sacramento River and associated tributaries above Shasta Dam. In doing so, the National Marine Fisheries Service (NMFS) established take prohibitions and exceptions for the nonessential experimental populations for otherwise lawful activities within the experimental population geographic range.

The designation and take provisions specify protective measures, prohibitions, and exceptions to the prohibitions for the designated experimental populations of Sacramento River winter–run Chinook salmon, a species designated as endangered, and Central Valley spring–run Chinook salmon, a species designated as threatened, both pursuant to the California Endangered Species Act (CESA) (Cal. Fish & Game Code, § 2050 et seq; see Cal. Code Regs., title 14, § 670.5, subdivision (a)(2)(M) and (b)(2)(C)), which, as described herein, the Director of the California Department of Fish and Wildlife (CDFW) determines meet the requirements of Fish and Game Code § 2080.6 subdivision (c).

The regulation includes protective measures, prohibitions, and exceptions to the prohibitions.

Subject to the express exceptions set forth in title 50 of the Code of Federal Regulations, section 223.301, subdivision (e) (2023), the regulation applies all take prohibitions listed under ESA section 9, subdivision (a)(1).¹ These prohibitions include legal and illegal activities resulting in take and apply to all Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon in the experimental population area (50 C.F.R. § 223.301, subdivision (e) (2)–(3)).

The regulation also provides exceptions to those prohibitions. Take that is unintentional, not due to negligent conduct, and incidental to, and not the purpose of, the carrying out of an otherwise lawful activity is not prohibited (50 C.F.R. § 223.301, subdivision (e)(4)(ii)). In addition, any take of Sacramento River winter–run Chinook salmon or Central Valley spring–run Chinook salmon is not prohibited if it is by authorized governmental entity personnel acting in compliance with title 50 of the Code of Federal Regulations, section 223.203, subdivision (b)(3), to aid a sick, injured, or stranded fish; dispose of a dead fish; or salvage a dead fish that may be useful for scientific study (50 C.F.R. § 223.301, subdivision (e)(4)(i)). Take also is not prohibited under the federal ESA if it occurs pursuant to a permit issued by NMFS under section 10 of the ESA (16 U.S.C. § 1539) and regulations applicable to such a permit (50 C.F.R. § 223.301, subdivision (e) (4)(iii)).

These protective measures, prohibitions, and exceptions to prohibitions contain measures to avoid and minimize the impacts of any taking allowed by the regulation.

CDFW notes that many federal and state laws and regulations will aid in the establishment and survival of the experimental population through the protection of aquatic and riparian habitat (88 Fed. Reg. 58511–58521 (noting, for example, that the regulation does not affect the applicability of sections 404, 401, and 402 of the Clean Water Act, the Magnuson–Stevens Fishery Conservation and Management Act, California Fish and Game Code section 1600 et seq., CESA, or the California Environmental Quality Act)). In addition, the exceptions to the take prohibition are narrow and apply to the experimental populations only when, and at such times as, they are wholly separate geograph-

ically from the nonexperimental populations of the same species (88 Fed. Reg. 58511–58521). After considering the measures, prohibitions, and exceptions to the prohibitions in the regulation, in conjunction with the continued applicability of these federal and state statutes in this context, CDFW concurs with NMFS' determination that the regulation includes measures to avoid and minimize the impacts of any taking allowed by the regulation.

These protective measures, prohibitions, and exceptions to prohibitions will further the conservation of Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon and their restoration in the McCloud River and Upper Sacramento River and associated tributaries above Shasta Dam and will not jeopardize their continued existence or recovery.

The Fish and Game Code provides that “conservation” means “to use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary” (Cal. Fish and Game Code § 2061). Notably, past and recent status reviews have concluded that Sacramento River winter–run Chinook salmon with the single spawning population on the mainstem Sacramento River are now at a high risk of extinction, with updated information indicating an increased extinction risk due to the larger influence of the hatchery broodstock and low numbers of natural–origin returns in two consecutive years (88 Fed. Reg. 58514). Also notably, past and recent status reviews of Central Valley spring–run Chinook salmon identified key threats, including recent catastrophic declines of many of the extant populations, high pre–spawn mortality during the 2012–2015 drought in California, uncertain juvenile survival as a result of drought and ocean conditions, as well as straying of Central Valley spring–run Chinook salmon from the Feather River Fish Hatchery (88 Fed. Reg. 58514). In making the determination as to whether to release experimental populations of Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon into the McCloud River and Upper Sacramento River above Shasta Dam, the Secretary of Commerce must determine whether doing so would further the conservation of the species. In making this determination, NMFS considered: (1) the effects of gathering broodstock on the extant populations of the evolutionarily significant units (ESUs); (2) the potential for the released populations to survive in the foreseeable future; and (3) the potential contribution of an experimental population to the recovery of the Sacramento River winter–run Chinook salmon ESU and the Central Valley spring–run Chinook salmon ESU. (See 88 Fed. Reg. 58511–58521).

¹ NOAA has previously issued regulations pursuant to ESA section 4, 16 U.S.C. § 1533, subdivision (d) (hereinafter “4(d)”), that apply to Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon. 50 C.F.R. § 223.203. See, 16 U.S.C. § 1533(d) (providing that “[w]henver any species is listed as a threatened species pursuant to subsection (c) of this section, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species.”)

Importantly, a status review of each species every five years will develop information to assess the measures' efficacy and, if necessary, will trigger revision to the regulation through the rulemaking process (88 Fed. Reg. 58517). In light of those foregoing considerations, NMFS concluded, and CDFW concurs, that designation of the experimental populations would further the conservation, and will not jeopardize the continued existence or recovery, of Sacramento River winter-run Chinook salmon and Central Valley spring-run Chinook salmon.

Determination

The Secretary of Commerce has published regulations in the Federal Register specifying protective measures, prohibitions, and exceptions to the prohibitions for the designated experimental populations of Sacramento River winter-run Chinook salmon and Central Valley spring-run Chinook salmon in the McCloud River and Upper Sacramento River above Shasta Dam. As described above, the Director has determined, in writing, that the protective measures, prohibitions, and exceptions to the prohibitions contained in the regulations meet the requirements in Fish and Game Code section 2080.6 subdivision (c) and, consequently, no further authorization or approval is necessary under CESA for any person to incidentally take members of the experimental populations, if the activity that results in incidental take of the designated experimental populations is authorized by the regulations published in the Federal Register.

**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.

California Horse Racing Board
File # 2023-1016-05
Jockey's Riding Fee

This action makes changes without regulatory effect increasing the jockey losing mount fees by the percentage increase of the state minimum wage pursuant to Business and Professions Code section 19501.

Title 04
Amend: 1632
Filed 11/30/2023
Agency Contact:
Amanda Drummond (916) 869-3255

Department of Insurance
File # 2023-1019-02
Portable Electronics Agent Licensing

This action amends portable electronics agent licensing regulations to revise terminology in accordance with Insurance Code section 1758.6, as amended by Assembly Bill 690 (Stats. 2011, chapter 165).

Title 10
Amend: 2194, 2194.2, 2194.3, 2194.4
Filed 12/05/2023
Agency Contact
George Teekell (415) 538-4390

Fish and Game Commission
File # 2023-1024-01
Issuance of Permits for Game Fish Contests Offering Prizes

As changes without regulatory effect, the Fish and Game Commission is amending the Application for Permit to Offer Prizes for Taking Game Fish (the "Application") to delete stray characters scattered throughout the Application.

Title 14
Amend: 230
Filed 12/05/2023
Agency Contact:
Jennifer Bacon (916) 902-9285

Board of Accountancy
File # 2023-1018-07
CPA Exam Revisions and Early Entry

This action adds requirements for early entry admission to sit for the Certified Public Accountant (CPA) Exam. This action also implements the new version of the CPA Exam based on the CPA Evolution licensure model that requires candidates to pass three core test sections that include Auditing and Attestation (AUD), Financial Accounting and Reporting (FAR), and Taxation and Regulation (REG) plus one of the three discipline sections: Business Analysis and Reporting (BAR), Information Systems and Controls (ISC), or Tax Compliance and Planning (TCP). In addition, this action makes grammatical changes and replaces gender specific pronouns.

Title 16
 Adopt: 7.3, 9.3
 Amend: 6, 7.1, 8.2, 9.2
 Repeal: 13
 Filed 11/30/2023
 Effective 01/01/2024
 Agency Contact: Eulalio Ortega (916) 689–8995

Bureau of Automotive Repair
 File # 2023–1018–02
 Automotive Repair Dealer Registration Renewal Requirements

This action by the Bureau of Automotive Repair specifies registration renewal requirements.

Title 16
 Amend: 3351.2
 Filed 12/04/2023
 Effective 04/01/2024
 Agency Contact: Kayla Shelton (916) 403–0307

Department of Consumer Affairs
 File # 2023–1016–04
 Power to Arrest and Appropriate Use of Force Training

This action implements AB 229 (Holden, Chapter 697, Statutes of 2021) and AB 2515 (Holden, Chapter 287, Statutes of 2022) related to the Bureau of Security and Investigative Services (Bureau) to add use of force topics to training requirements for security guards and proprietary security services officers (PPSOs). The action also amends power to arrest (PTA) training requirements for PPSOs and adopts PTA training requirements for alarm agents. This action also amends firearm training standards for Bureau licensees.

Title 16
 Adopt: 646
 Amend: 628, 631, 633, 635, 643
 Repeal: 645
 Filed 11/30/2023
 Effective 11/30/2023
 Agency Contact: Sam Stodolski (916) 575–7024

Department of Real Estate
 File # 2023–1103–01
 Regulations to Implement SB 1495

This action amends the requirements for Department of Real Estate (Department) approval of material changes by private vocational schools to approved courses of study necessary to qualify for a real estate license. The action establishes that changes which reflect the revised education requirements of Business and Professions Code (BPC) section 10153.2 are material changes which must be approved by the Department. The action waives the Department’s fee

for approval of material changes which reflect the revised education requirements of BPC section 10153.2 for applications received prior to January 1, 2024. The action also defines the term “interactive participatory component” used in BPC section 10153.2.

Title 10
 Adopt: 3002.2
 Amend: 3002
 Filed 11/29/2023
 Effective 01/01/2024
 Agency Contact: Jeanine Clasen (916) 576–3783

Department of Toxic Substances Control
 File # 2023–1017–03
 Amendments to the Nonadmitted Carrier Requirements for Excess and Surplus Line Insurance

This rulemaking action by the California Department of Toxic Substance Control amends the financial assurance requirements for closure, post-closure, corrective action, and third-party obligations of hazardous waste facilities.

Title 22
 Amend: 66264.143, 66264.145, 66264.147, 66265.143, 66265.145, 66265.147, 66264.151
 Filed 11/30/2023
 Effective 01/01/2024
 Agency Contact:
 Gabby Nepomuceno (916) 251–8328

Department of Transportation
 File # 2023–1109–01
 Automatic Vehicle Identification Specifications

This action extends the sunset date of the Automatic Vehicle Identification Specification program from January 1, 2024 to January 1, 2027.

Title 21
 Amend: 1700.3
 Filed 12/04/2023
 Effective 12/04/2023
 Agency Contact: Joe Rouse (916) 952–6436

State Water Resources Control Board
 File # 2023–1019–01
 Policy on Use of Coastal and Estuarine Waters for Power Plant Cooling

This action by the State Water Resources Control Board amends the Statewide Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (Once-Through Cooling or “OTC” Policy) by extending compliance dates for Alamitos Generating Station Units 3, 4, and 5; Huntington Beach Generating Station Unit 2; Ormond Beach Generating Station Units 1 and 2; and Scattergood Generating Station Units 1 and 2. This action also changes com-

pliance dates for Diablo Canyon Nuclear Power Plant Units 1 and 2 consistent with compliance dates established by Statutes 2022, chapter 239 (SB 846).

Title 23
Amend: 2922
Filed 12/05/2023
Effective 12/05/2023
Agency Contact: Jonathan Dolan (916) 323-0880

Board of Accountancy

File # 2023-1020-03

Sale, Transfer, or Discontinuance of Licensee's Practice

This action proposes to adopt a requirement to notify clients regarding client records when a licensee's practice is sold, transferred, or discontinued.

Title 16
Adopt: 54.3, 54.4
Filed 12/04/2023
Effective 04/01/2024
Agency Contact: Sarah Fletcher (916) 561-1706

California Horse Racing Board

File # 2023-1019-03

Apprentice Jockey/Apprentice Allowance

This action by the California Horse Racing Board amends two sections to align with proposed language for the Association of Racing Commissioners International model rule by specifying general license eligibility and to include modified allowance requirements for an apprentice jockey.

Title 04
Amend: 1500, 1619
Filed 11/29/2023
Effective 01/01/2024
Agency Contact:
Nicole Lopes-Gravely (916) 263-6397

Department of Justice

File # 2023-1024-05

Check Cashier Permit Program

In this regular rulemaking, the Department of Justice is adopting, amending, and repealing regulations pertaining to the issuance and renewal of a permit to conduct a check cashing business pursuant to Civil Code section 1789.37.

Title 11

Amend: 990, 990.1, 990.2, 991, 991.1, 991.2, 991.3, 991.4, 991.5, 992, 992.1, 992.2, 992.3, 992.4, 992.5, 992.6, 992.7, 992.8, 993, 993.1, 993.2, 993.3, 993.4

Repeal: 993.5, 993.6, 993.7

Filed 12/06/2023

Effective 01/01/2024

Agency Contact: Marlon Martinez
(213) 269-6437

**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.