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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**

**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: Monterey Bay Air Resources District
Eastern Sierra Transit Authority

A written comment period has been established commencing on November 4, 2016, and closing on December 19, 2016. Written comments should be directed to the Fair Political Practices Commission, Attention Cynthia Jones, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for her 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 code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), 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 her or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than December 19,

2016. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

**EFFECT ON HOUSING COSTS
AND BUSINESSES**

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Cynthia Jones, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**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 Cynthia Jones, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Food and Agriculture (Department) amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid(ACP) Interior Quarantine as an emergency action which was effective on August 23, 2016. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than February 21, 2017.

This notice is being provided to be in compliance with Government Code Section 11346.4.

PUBLIC HEARING

A public hearing is not scheduled. 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 amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to Sara.Khalid@cdfa.ca.gov. The written comment period closes at 5:00 p.m. on December 19, 2016. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Sara Khalid
 Department of Food and Agriculture
 Plant Health and Pest Prevention Services
 1220 N Street
 Sacramento, CA 95814
Sara.Khalid@cdfa.ca.gov
 916.654.1017
 916.654.1018 (FAX)

Following the public hearing if one is requested, or following the written comment period if no public hearing 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.

Existing law 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 (Food and Agricultural Code (FAC) 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as she deems necessary to protect the agricultural industry from the introduction and spread of pests (FAC Sections 401, 403, 407 and 5322).

Anticipated Benefits from This Regulatory Action

Existing law, FAC Section 403, provides that the department shall prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds.

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 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.

The existing law obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal. This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pests which is a mandated statutory goal.

The amendment of this regulation benefits the citrus industries (nurseries, fruit growers, wholesalers, retailers, exporters) and the environment by having a quarantine program to prevent the artificial spread of ACP over long distances. Almost all of the commercial citrus fruit and nursery stock production is located outside this proposed quarantine area boundary.

The national and international consumers of California citrus benefit by having high-quality fruit available at lower cost. It is assumed that any increases in production costs will ultimately be passed on to the consumer.

The amendment of this regulation benefits homeowners who grow citrus for consumption and host material that is planted as ornamentals in various rural and urban landscapes.

FAC Section 401.5 states, “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.” The amendment of this regulation is preventing the artificial spread of ACP to uninfested areas of the State.

Huanglongbing (HLB) is generally distributed in Florida due to ACP being generally distributed there. The University of Florida Institute of Food and Agricultural Sciences Extension calculated and compared the impact of having and not having HLB present in Florida and concluded HLB had a total impact of \$3.64 billion and eliminated seven percent of the total Florida workforce. The overall California economy benefits by the amendment of this regulation, which is intended to prevent ACP from becoming generally distributed in California and resulting in a similar effect on our economy as to what happened in Florida. This is now critical as HLB has been introduced into California.

There is no existing, comparable federal regulation or statute regulating the intrastate movement of ACP hosts.

The Department has considered any other possible related regulations in this area, and we find that these are the only regulations dealing in this subject area, and it is the only State agency that can implement plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

AMENDED TEXT

The emergency rulemaking action expanded the quarantine area for ACP in Kings County by approximately 21 square miles. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against ACP within this additional area. The total area that would be under regulation is now approximately 55,286 square miles,

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.

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.

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

The Department has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost impacts on a representative private person or business: Most businesses will not be affected. There are zero citrus production nurseries in the affected area that will be impacted. There are zero retail nurseries in the affected area. There are two citrus growers in the proposed area. There is no additional cost to growers who take their fruit to a packinghouse inside the current quarantine area. Growers choosing a packinghouse outside the quarantine area have three options: 1. Conduct pre-harvest treatments with an approved pesticide while fruit is still on the trees; 2. Field-clean the fruit to remove leaves and stems during harvest; 3. Send the fruit to a packinghouse within the quarantine area to be cleaned. Pre-harvest treatments cost growers approximately \$60 per acre and the fruit is required to be covered with a tarp while in transit. Tarps range in price from \$2,500-\$3,000 apiece. Field-cleaning the fruit will cost the grower approximately \$150-\$320 per acre depending on the citrus variety. Field-cleaned fruit does not require a tarp for transport and can be moved within or from the quarantined area. Cleaning at a packinghouse within the quarantine area will cost the grower approximately \$300-\$400 per acre, and the fruit must remain within the quarantine area, although the loads do not need to be covered with a tarp. There are zero citrus packinghouses located within this quarantine area.

Based on the preceding information, it was determined that due to the amendment of Section 3435(b), the agency is not aware of any cost impact on a representative business or private person. For the vast majority of businesses within the regulated area, no additional costs will be incurred.

Small Business Determination

The Department has determined that the proposed regulations may affect small business.

Significant effect on housing costs: None.

Results of the Economic Impact Analysis

Amendment of these regulations will not:

- (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.

The Department is not aware of any specific benefits the amendment of this regulation will have on worker safety or the health of California residents. The Department believes the amendment of this regulation benefits the welfare of California residents by protecting the economic health of the entire citrus industry. In 2010 the estimated value was \$2.1 billion for citrus fruit and \$28.5 million for citrus nursery stock without all the upstream buyers and downstream retailers included (*Reference: John Gilstrap of California Citrus Nursery Board for citrus nursery stock value and USDA–National Agricultural Statistics Service 2010 data for citrus fruit*). This is a needed source of revenue for the State’s economic health and this amendment will help protect this source of revenue.

ALTERNATIVES CONSIDERED

The Department 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 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 than the proposal described in this Notice.

AUTHORITY

The Department proposes to amend Section 3435(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the FAC.

REFERENCE

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

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is Sara Khalid, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room 210, Sacramento, California 95814, (916) 654–1017, FAX (916) 654–1018, E-mail:

Sara.Khalid@cdfa.ca.gov. In her absence, you may contact Laura Petro at (916) 654–1017. Questions regarding the substance of the proposed regulation should be directed to Sara Khalid.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/plant/Regulations.html).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. 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, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 15. BOARD OF PAROLE HEARINGS

CHAPTER 3. PAROLE RELEASE ARTICLE 2. INFORMATION CONSIDERED

Amendment of Section 2240 Comprehensive Risk Assessments (previously: Psychological Risk Assessments for Life Inmates)

NOTICE IS HEREBY GIVEN that the Executive Officer of the Board of Parole Hearings (board), pursuant to the authority granted by Government Code section 12838.4 and Penal Code sections 3052 and 5076.2, authorizes the board to adopt the proposed Amended Section 2240 of the California Code of Regulations (CCR), Title 15, Division 2, concerning Psychological Risk Assessments for Life Inmates.

AUTHORITY AND REFERENCE

Government Code section 12838.4 vests the board with all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Board of Prison Terms and Narcotic Addict Evaluation Authority, which no longer exist.

Penal Code section 3052 vests with the board the authority to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole outside of prison when eligible for parole.

Penal Code section 5076.2 requires the board promulgate, maintain, publish, and make available to the general public a compendium of its rules and regulations.

Penal Code section 3041 requires the board to meet with each inmate before the inmate's minimum eligible parole for the purpose of reviewing and documenting the inmate's activities.

Penal Code section 3041.5 establishes the requirements and conditions concerning parole denial and guidelines concerning the inmate's right to petition the board concerning the results,

Penal Code section 3051 establishes the youth offender parole hearings and the procedures for reviewing the parole suitability of any prisoner who was under the age of 23 at the time of his or her controlling offense.

Penal Code section 11190 establishes the Western Interstate Corrections Compact, which provides for the development, and execution of programs, the operations for the confinement, treatment, and rehabilitation of offenders.

Penal Code section 11193 requires that any inmate under the jurisdiction of the California Department of Corrections and Rehabilitation, imprisoned in another state, shall be entitled to all hearings, within 120 days of the time and under the same standards, which are normally accorded to persons similarly sentenced who are confined in institutions in this state.

The California Court of Appeal (First Appellate District) case *In re Lugo* and *In re Rutherford* required a remedial plan to be agreed upon by all parties to reduce the parole hearing backlog and bring the board in compliance with state law. (*In re Lugo* (2008) 164 CalApp.4th 1522; *In re Rutherford*, Cal. Super. Ct., Marin County, No. SC135399A.)

The California Court of Appeal (Third Appellate District) case *Sherman-Bey v. Shaffer* found the language of prior section 2240(b) lacks clarity because the term "may use" was permissive and "actuarially derived and structured professional judgment" was not easily understood by laypersons. (*Sherman-Bey v. Shaffer*, 2016 WL 193508, Case No. C077499.)

The Federal Eastern District Court of California case *Johnson v. Shaffer* approved a stipulated agreement between the parties requiring the discontinuation of subsequent risk assessments, replacement with comprehensive risk assessments, and a pre-hearing process through which inmates can object to factual errors. (*Johnson v. Shaffer* (E.D. Cal. May 26, 2016) No. 2:12-cv-1059, Doc. 167 [order approving stipulated agreement].)

PUBLIC COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the board. **THE WRITTEN COMMENT PERIOD ON THIS PROPOSED REGULATORY ACTION WILL COMMENCE ON NOVEMBER 4, 2016, AND WILL CLOSE AT 5:00 P.M. ON DECEMBER 19, 2016.** For comments to be considered by the board, they must be submitted in writing to the board's Contact Person identified in this Notice no later than the close of the comment period.

CONTACT PERSON

Please direct requests for copies of the Initial Statement of Reasons, the Proposed Text of the Regulation, or other information upon which the rulemaking is based to:

Heather L. McCray, Senior Staff Attorney

Board of Parole Hearings

P.O. Box 4036

Sacramento, CA 95812-4036

Phone: (916) 322-6729

Facsimile: (916) 322-3475

E-mail: BPH.Regulations@cdcr.ca.gov

If Heather McCray is unavailable, please contact Chief Counsel, Jennifer Neill at Jennifer.Neill@cdcr.ca.gov. In any such inquiries, please identify the action by using the board's regulation control number **BPH RN 16-01**.

NO PUBLIC HEARING SCHEDULED

The board has not scheduled a public hearing on this proposed regulatory action. However, the board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period. Written or facsimile comments submitted during the prescribed comment period have the same significance and influence as oral comments presented at a public hearing.

If scheduled, the purpose of a public hearing would be to receive oral comments about the proposed regulations. It would not be a forum to debate the proposed regulations, and no decision regarding the permanent adoption of the proposed regulations would be rendered at a public hearing. The members of the board would not necessarily be present at a public hearing.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The Board of Parole Hearings (board) proposes to amend California Code of Regulations, title 15, section 2240, which governs Comprehensive Risk Assessments (previously Psychological Risk Assessment for Life Inmates).

In 2006, the board formed the Forensic Assessment Division (FAD) Lifer Unit, comprised of psychologists who prepare risk assessments for use by hearing panels when determining an inmate’s suitability for parole.

On April 20, 2012, the class action case *Johnson v. Shaffer* was filed, challenging the constitutionality of the protocol adopted by [the FAD] for use in the preparation of psychological evaluations to be considered in determining the suitability of class members for parole. On May 26, 2016, the court approved the parties’ negotiated settlement agreement. (*Johnson v. Shaffer* (E.D. Cal. May 26, 2016) No. 2:12-cv-1059, Doc. 167 [order approving stipulated agreement].)

In 2014, while the *Johnson* case was still pending, the Sacramento County Superior Court determined that language in subdivision (d) of section 2240 was vague and confusing. This decision was upheld by the California Third District Court of Appeal. (*Sherman–Bey v. Shaffer*, 2016 WL 193508, Case No. C077499.)

This proposed regulation package is necessary to implement, interpret, and comply with the court’s decision ordering implementation of the *Johnson v. Shaffer* stipulated agreement, the court order in *Sherman–Bey v. Shaffer*, and Penal Code Sections 3041, 3041.5, 3051, 11190, and 11193. The amendments included in this proposed action are intended to clarify, and increase efficiency for, comprehensive risk assessments, which will better meet the needs for inmates subject to the board’s parole authority as well as other stakeholders.

ANTICIPATED BENEFITS OF THE
PROPOSED REGULATIONS

Updating the language to require risk assessment tools to be “generally accepted” will benefit inmates, victims, hearing panels, and the public by ensuring that any instruments FAD psychologists use to assess risk have been deemed appropriate by the general psycholo-

gy community. These amendments will also benefit all stakeholders by providing greater clarity about the requirements for these instruments.

Eliminating the shorter “Subsequent Risk Assessments” and instead mandating a new “Comprehensive Risk Assessment” every three years benefits all stakeholders. Since the hearing panels will have access to a more current and robust evaluation of the inmate’s risk at every hearing, the panels will be better informed, which will assist them in reaching increasingly accurate decisions regarding an inmate’s suitability. This will not only benefit inmates by ensuring that suitable inmates will be granted parole, but also benefit victims and the general public by ensuring that inmates who continue to pose an unreasonable risk to public safety are denied parole.

Developing the pre-hearing appeal process to lodge objections to factual errors in a comprehensive risk assessment prior to the hearing will similarly benefit multiple stakeholders. Allowing these issues to be resolved prior to a hearing will benefit inmates by ensuring that only accurate information is used during the hearing to assess the inmate’s current suitability for parole. Additionally, the pre-hearing process will reduce the number of postponements, which will benefit victims and all other hearing participants by reducing the number of wasted travel and appearances for hearings that ultimately do not go forward. Moreover, retaining an inmate’s right to object to or clarify statements that the risk assessment attributed to the inmate or respond to any of the clinician’s observations, opinions, or diagnoses ensures that hearing panels have the most accurate information possible when assessing an inmate’s suitability for parole.

Finally, clarifying the FAD’s authority with respect to inmates housed out of state will benefit out-of-state inmates by clarifying that they may be able to receive a risk assessment if licensing, confidentiality, and other restraints permit it, and the board exercises its discretion to prepare the assessment.

DETERMINATION OF
INCONSISTENCY/INCOMPATIBILITY WITH
EXISTING STATE REGULATIONS

The board has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the board has concluded that these are the only regulations that concern the board’s role and requirements in performing a Comprehensive Risk Assessment prior to the parole consideration hearing or parole reconsideration hearing for an inmate subject to the parole authority of the board.

DISCLOSURES REGARDING THE
PROPOSED ACTION

Local Mandates: The board has determined that the proposed action imposes no mandate upon local agencies or school districts.

Fiscal Impact Statement: The board has made the following initial determinations:

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: **None.**
- Cost or savings to any state agency: **None:** In the prior fiscal year, the board requested and was granted position authority for three additional psychologist positions to meet the new requirements for Comprehensive Risk Assessments to be completed every three years instead of every five years. This means these new positions were established, but the board absorbed the costs with its existing budget. Additionally, the board had no discretion under the court order with respect to increasing the frequency of the Comprehensive Risk Assessments. Therefore, the regulations regarding the increase in frequency necessitating the new positions are only codifying the board's current mandated process, and will not result in any additional discretionary costs or savings to the board.
- 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 on Business: The board has determined that there is no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: 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.

Assessment of Effects on Job and/or Business Creation, Elimination or Expansion: The board has determined that adoption of this regulation will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing business within California; or (3) affect the expansion of businesses currently doing business within California. While three new psychologist positions were previously established to implement the increased frequency of the comprehensive risk assessments, as mandated by the court's order in *Johnson v. Shaffer*, the adoption of these regula-

tions will not result in the creation or elimination of any additional jobs.

Effect on Housing Costs: The board has made an initial determination that the proposed action will have no significant effect on housing costs because housing costs are not affected by the internal processes governing the board's role and requirements in performing a Comprehensive Risk Assessment prior to the parole consideration hearing or parole reconsideration hearing for an inmate subject to the parole authority of the board.

Small Business Determination: The board has determined that the proposed regulation does not have a significant adverse economic impact on small business because small businesses are not affected by the internal processes governing the board's role and requirements in performing a Comprehensive Risk Assessment prior to the parole consideration hearing or parole reconsideration hearing for an inmate subject to the parole authority of the board.

RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT

The board concludes that it is (1) unlikely that the proposed regulations will create or eliminate any jobs in California, (2) unlikely that the proposed regulations will create any new business or eliminate any existing businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Anticipated Benefits to the health and welfare of California residents, worker safety, and the state's environment: As further explained in the Economic Impact Analysis, contained within the Initial Statement of Reasons, the proposed shift toward comprehensive risk assessments for regularly scheduled hearings, rather than the shorter subsequent risk assessments, will provide hearing officers charged with determining an inmate's suitability for parole with a greater understanding of the inmate's psychological features and their impact on his or her risk of violence. Additionally, the regulations increase protections to both victims and inmates by ensuring greater accuracy of risk assessments through newly implemented pre-hearing and at-hearing objection and clarification processes. This increased accuracy and hearing officers' enhanced understanding of an inmate's risk of violence when determining suitability will, in turn, promote both inmate rehabilitation and better protection of public safety.

CONSIDERATION OF ALTERNATIVES

The board 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, or 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 provision of law. Interested parties are accordingly invited to present statements or arguments with respect to any alternatives to the proposed changes during the public comment period.

AVAILABILITY OF PROPOSED TEXT

The board will make the rulemaking file available to the public throughout the rulemaking process at its offices located at 1515 K Street, Suite 600, Sacramento, California. As of the date this Notice is published in the Office of Administrative Law's Notice Register, the rulemaking file consists of this Notice, Form 400 (Notice of Submission of Regulation), the Proposed Text of the Regulation and Initial Statement of Reasons. Copies of any of these documents may be obtained by contacting the board's Contact Person identified in this notice at the mailing address, fax number, or email address listed above or by visiting the board's website at: http://www.cdcr.ca.gov/BOPH/reg_revisions.html.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the board may adopt the proposed regulations substantially as described in this Notice. If the board makes modifications 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 board adopts the regulations as revised. Please send requests for copies of any modified regulation text to the attention of the Contact Person identified in this Notice or by visiting the board's website at http://www.cdcr.ca.gov/BOPH/reg_revisions.html. If the board makes modifications, the board 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 board's Contact Person identified in this notice at the mailing address, phone number, fax number, or email address

listed above or by visiting the board's website at: http://www.cdcr.ca.gov/BOPH/reg_revisions.html.

GENERAL PUBLIC INTEREST

BUREAU OF REAL ESTATE

NOTICE OF HEARING BY THE REAL ESTATE COMMISSIONER: ANNUAL FEE REVIEW — REQUIRED BY STATUTE

Wayne S. Bell, Real Estate Commissioner, proposes to consider whether the fees charged by the Bureau of Real Estate ("CalBRE") should be lower than the maximum amount allowed pursuant to California Business and Professions Code ("the Code") Sections 10209.5, 10210, 10214.5, 10215, 10250.3 and 11011. The Commissioner's consideration will include all comments, objections and recommendations regarding such fees.

PUBLIC HEARING ANNOUNCEMENT

Sections 10226 and 11011 of the Code require, among other things, that at least one regulation hearing be held each calendar year to determine if fees lower than those authorized under Section 10226.5(b) of the Code should be prescribed. The hearing referred to below shall serve as the regulation hearing for the purpose of satisfying the requirement of Sections 10226(a) and 11011(a) of the Code. CalBRE may present, at this hearing, relevant data compiled by the CalBRE, and other sources, if appropriate, that have been used or which may be used in making the determination if fees should be lower. There is no proposal to adopt, amend and/or repeal any sections of the California Code of Regulations (CCR) at this time. However, the Commissioner wishes to consider all comments, objections and recommendations regarding such fees.

CalBRE will hold a public hearing starting at 10:00 a.m., on December 20, 2016, at the CalBRE's Sacramento Office, located at 1651 Exposition Boulevard, Sacramento, California. The hearing room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to

CalBRE's fee structure. The written comment period closes on December 20, 2016. All written comments must be received by 5:00 p.m. on that date at CalBRE's Sacramento Office as follows:

Daniel E. Kehew, Real Estate Counsel
 California Bureau of Real Estate
 P.O. Box 137007
 Sacramento, CA 95813-7007
 Telephone: (916) 263-8681

Backup contact person for this proposed action is Stephen Lerner at (916) 263-8704.

CalBRE will mail or deliver a copy of this Hearing Notice by the Real Estate Commissioner to CalBRE's list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with CalBRE.
2. The Director of the Department of Consumer Affairs.
3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be affected by any fee adjustment. (To restate: This announcement involves no such adjustment.) CalBRE has no way of knowing which licensees are small businesses.
4. The California Association of Realtors (a real estate licensee trade organization) and the California Building Industry Association (a home builders trade organization).
5. A substantial number of land developers. Not small businesses by definition, they may, nevertheless, be affected by any fee adjustment. (To restate: This announcement involves no such adjustment.)

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

Livermore tarplant (*Deinandra bacigalupii*)

NOTICE IS HEREBY GIVEN that the California Fish and Game Commission (Commission), at its meeting in Folsom, California on August 25, 2016, made a finding pursuant to Fish and Game Code Section 2075.5, that the petitioned action to add the Livermore tarplant (*Deinandra bacigalupii*) to the list of endangered species under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) is warranted. (See also Cal. Code Regs., tit. 14, § 670.1, subd. (i).)

NOTICE IS ALSO GIVEN that, at its October 20, 2016, meeting in Eureka, California, the Commission adopted the following findings outlining the reasons for its listing decision.

I. BACKGROUND AND PROCEDURAL HISTORY

Petition History

On August 26, 2014, the Commission received the "A Petition to the State of California Fish and Game Commission" to list the species identified as the Livermore tarplant (*Deinandra bacigalupii*) as an endangered species (Petition). The Petition was submitted by Heath Bartosh (Petitioner).

Commission staff transmitted the Petition to the Department of Fish and Wildlife (Department) pursuant to Fish and Game Code Section 2073 on August 28, 2014, and the Commission published formal notice of receipt of the Petition on September 12, 2014 (Cal. Reg. Notice Register 2014, No. 37-Z, p. 1627). On October 8, 2014, Commission staff provided a copy of the Petition to the Commission pursuant to Title 14, California Code of Regulations, Section 670.1. On November 24, 2014, the Department requested a 30-day extension pursuant to Fish and Game Code Section 2073.5 to allow the Department to complete its analysis. After evaluating the Petition and other relevant information the Department possessed or received, the Department determined that based on the information in the Petition, there was sufficient scientific information to indicate that the petitioned action may be warranted, and recommended the Commission accept the Petition. On April 9, 2015, the Commission voted to accept the Petition and initiate a review of the species' status in California. Upon publication of the Commission's notice of determination, the Livermore tarplant was designated a candidate species on April 24, 2015 (Cal. Reg. Notice Register 2015, No. 17-Z, p. 656).

Following the Commission's designation of the Livermore tarplant as a candidate species, the Department notified affected and interested parties and solicited data and comments on the petitioned action pursuant to Fish and Game Code Section 2074.4. (See also Cal. Code Regs., tit. 14, § 670.1(f)(2).) Subsequently, the Department reviewed the species' status. On April 11, 2016, the Department Director delivered a report on the status review to the Commission pursuant to Fish and Game Code Section 2074.6, including a recommendation that, based upon the best scientific information available to the Department, the petitioned action is warranted.

On August 25, 2016, at its meeting in Folsom, California, the Commission took up consideration of the Petition and received public testimony on the matter. The

Commission voted to add the Livermore tarplant to the list of threatened species. The Commission directed its staff, in coordination with the Department, to prepare findings of fact consistent with the Commission’s determination and to present those findings for consideration and ratification at the Commission’s October 20, 2016, meeting in Eureka, California.

Species Description

Livermore tarplant is an herbaceous plant of the sunflower family (*Asteraceae*) that grows to a height of 3.9 to 15.7 inches (10 to 40 centimeters). The Livermore tarplant was described as a new species in 1999. The leaves and parts of the stems, flowers, and flower heads of Livermore tarplant have minutely-stalked yellowish or clear glands that are sticky and give the plant a strong odor.

There are four known occurrences of Livermore tarplant, all restricted to the eastern portion of the Livermore Valley, within the City of Livermore and unincorporated Alameda County, California. Livermore tarplant grows in poorly drained, seasonally dry alkaline meadows in the vicinity of barren alkali scalds, alkali vernal pools and playa-like pools.

Federal Status

The Livermore tarplant is not protected pursuant to the federal Endangered Species Act (16 U.S.C. §§ 1531 et seq.).

II. STATUTORY AND LEGAL FRAMEWORK

The Commission, as established by the California Constitution, has exclusive statutory authority under California law to designate endangered, threatened, and candidate species under CESA. (Cal. Const., art. IV, § 20, subd. (b); Fish & G. Code, § 2070.) The Commission has prepared these findings as part of its final action under CESA regarding the Petition to designate Livermore tarplant as an endangered species under CESA. As set forth above, the Commission’s determination that listing Livermore tarplant is warranted marks the end of formal administrative proceedings under CESA. (See generally Fish & G. Code, § 2070 et seq.; Cal. Code Regs., tit. 14, § 670.1.)

The CESA listing process for Livermore tarplant began in the present case with the Petitioner’s submittal of the Petition to the Commission on August 26, 2014 (Cal. Reg. Notice Register 2014, No. 37-Z, p. 1627). Pursuant to Fish and Game Code Section 2073, on August 28, 2014, the Commission transmitted the petition to the Department for review pursuant to Fish and Game Code Section 2073.5. The regulatory process that ensued is described in some detail in the preceding section above, along with related references to the Fish and Game Code and controlling regulation. The CESA list-

ing process generally is also described in some detail in published appellate case law in California, including:

- *Mountain Lion Foundation v. California Fish and Game Commission* (1997) 16 Cal.4th 105, 114–116;
- *California Forestry Association v. California Fish and Game Commission* (2007) 156 Cal.App.4th 1535, 1541–1542;
- *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, 600; and
- *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104, 1111–1116.

The “is warranted” determination at issue here for Livermore tarplant stems from Commission obligations established by Fish and Game Code Section 2075.5(e). Under this provision, the Commission is required to make one of two findings for a candidate species at the end of the CESA listing process; namely, whether the petitioned action is warranted or is not warranted. Here, with respect to Livermore tarplant, the Commission made the finding under Section 2075.5(e)(2) that the petitioned action is warranted.

The Commission was guided in making these determinations by statutory provisions and other controlling law. The Fish and Game Code, for example, defines an endangered species under CESA as “a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease.” (Fish & G. Code, § 2062.) Similarly, the Fish and Game Code defines a threatened species under CESA as “a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter.” (*Id.*, § 2067.)

The Commission also considered Title 14, Section 670.1, subdivision (i)(1)(A), of the California Code of Regulations in making its determination regarding Livermore tarplant. This provision provides, in pertinent part, that a species shall be listed as endangered or threatened under CESA if the Commission determines that the species’ continued existence is in serious danger or is threatened by any one or any combination of the following factors:

1. Present or threatened modification or destruction of its habitat;
2. Overexploitation;
3. Predation;

4. Competition;
5. Disease; or
6. Other natural occurrences or human-related activities.

Fish and Game Code Section 2070 provides similar guidance. This section provides that the Commission shall add or remove species from the list of endangered and threatened species under CESA only upon receipt of sufficient scientific information that the action is warranted. Similarly, CESA provides policy direction not specific to the Commission per se, indicating that all state agencies, boards, and commissions shall seek to conserve endangered and threatened species and shall utilize their authority in furtherance of the purposes of CESA. (Fish & G. Code, § 2055.) This policy direction does not compel a particular determination by the Commission in the CESA listing context. Nevertheless, “[l]aws providing for the conservation of natural resources’ such as the CESA are of great remedial and public importance and thus should be construed liberally.” (*California Forestry Association v. California Fish and Game Commission*, supra, 156 Cal. App.4th at pp. 1545–1546, citing *San Bernardino Valley Audubon Society v. City of Moreno Valley* (1996) 44 Cal.App.4th 593, 601; Fish & G. Code, §§ 2051, 2052.)

Finally in considering these factors, CESA and controlling regulations require the Commission to actively seek and consider related input from the public and any interested party. (See, e.g., Id., §§ 2071, 2074.4, 2078; Cal. Code Regs., tit. 14, § 670.1, subd. (h).) The related notice obligations and public hearing opportunities before the Commission are also considerable. (Fish & G. Code, §§ 2073.3, 2074, 2074.2, 2075, 2075.5, 2078; Cal. Code Regs., tit. 14, § 670.1, subds. (c), (e), (g), (i); see also Gov. Code, § 11120 et seq.) All of these obligations are in addition to the requirements prescribed for the Department in the CESA listing process, including an initial evaluation of the petition and a related recommendation regarding candidacy, and a 12-month status review of the candidate species culminating with a report and recommendation to the Commission as to whether listing is warranted based on the best available science. (Fish & G. Code, §§ 2073.4, 2073.5, 2074.4, 2074.6; Cal. Code Regs., tit. 14, § 670.1, subds. (d), (f), (h).)

III. FACTUAL AND SCIENTIFIC BASES FOR THE COMMISSION’S FINAL DETERMINATION

The factual and scientific bases for the Commission’s determination that designating the Livermore tarplant as an endangered species under CESA is warranted are set forth in detail in the Commission’s record of proceedings. The evidence in the administrative record in

support of the Commission’s determination includes, but is not limited to, the Petition, the Department’s Petition Evaluation Report, the Department’s status review, and other evidence included in the Commission’s administrative record as it exists up to and including the Commission meeting in Folsom, California on August 25, 2016. The administrative record also includes these findings.

The Commission determines that the continued existence of Livermore tarplant in the State of California is in serious danger or threatened by one or a combination of the following factors as required by the California Code of Regulations, Title 14, Section 670.1, subdivision (i)(1)(A):

1. Present or threatened modification or destruction of its habitat;
2. Competition; or
3. Other natural occurrences or human-related activities.

The Commission also determines that the information in the Commission’s record constitutes the best scientific information available and establishes that designating the Livermore tarplant as an endangered species under CESA is warranted.

The items highlighted here and detailed in the following section represent only a portion of the complex issues aired and considered by the Commission during the CESA listing process for Livermore tarplant. Similarly, the issues addressed in these findings represent some, but not all of the evidence, issues, and considerations affecting the Commission’s final determination. Other issues aired before and considered by the Commission are addressed in detail in the record before the Commission, which record is incorporated herein by reference.

All populations of Livermore tarplant occur within the immediate vicinity of urban development. Livermore tarplant is threatened, both directly and indirectly, by recent and ongoing development and changes in land use, impacts from invasive species, recreation activities, and herbicide use. Ground-disturbing impacts from grazing and impacts from thatch accumulation in areas that are not grazed are also potential threats to Livermore tarplant. It is unclear how climate change will affect Livermore tarplant. Livermore tarplant is also vulnerable to extinction due to the small number of Livermore tarplant populations and the relatively small sizes of those populations. Because of the rarity of Livermore tarplant, the loss of all or a significant portion of any Livermore tarplant population would represent the loss of a significant portion of Livermore tarplant’s total range.

Threats

Present or Threatened Modification or Destruction of Habitat

The habitats in the Livermore Valley have been impacted by a history of modification and destruction from development, grazing, and other land use. Evaluation of soil maps and aerial imagery show that these activities have almost certainly resulted in the loss of Livermore tarplant habitat. Current land use practices, zoning, and designations have led to recent and severe habitat modification and destruction that is likely to lead to the extirpation of a significant portion of Livermore tarplant’s range, and the modification and destruction of habitat is likely to continue into the future. In addition, recreation activities within and in the vicinity of Livermore tarplant populations have resulted in habitat degradation that is evident on the ground and visible from aerial imagery. The modification and destruction of habitat is a significant threat to the continued existence of Livermore tarplant.

Competition

Invasive plant species have been documented to pose serious threats to biodiversity around the world, and are a particularly pervasive problem in Mediterranean-type habitats like those in California. Invasive thatch-forming grasses, and other invasive plants such as perennial pepperweed, occur within and in close proximity to all Livermore tarplant populations. Invasive plant species are a significant threat to the continued existence of Livermore tarplant.

Other Natural Occurrences or Human-related Activities

The climate of California is certain to change due to warming of the global climate system; however, it is unclear how such changes will affect Livermore tarplant. Livermore tarplant has a narrow distribution and few populations, with three of the four known populations occupying relatively small areas. Livermore tarplant’s rarity and extremely limited distribution, and its occurrence only in and near developed areas, make the species very vulnerable to stochastic (chance) events such as droughts, wildfires, and accidents, and to all other threats. Therefore, the loss of all or a significant portion of any Livermore tarplant population would represent the loss of a significant portion of Livermore tarplant’s total range. Livermore tarplant is also threatened by herbicide application and other right-of-way maintenance activities.

IV. FINAL DETERMINATION BY THE COMMISSION

The Commission has weighed and evaluated the information for and against designating Livermore tarplant as an endangered species under CESA. This infor-

mation includes scientific and other general evidence in the Petition, the Department’s Petition Evaluation Report, the Department’s 2016 peer-reviewed Status Review, the Department’s related recommendations, and other evidence included in the Commission’s record of proceedings.

Based upon the evidence in the record the Commission has determined that the best scientific information available indicates that the continued existence of Livermore tarplant is in serious danger or threatened by present or threatened modifications or destruction of the species’ habitat, predation, competition, disease, or other natural occurrences or human-related activities, where such factors are considered individually or in combination. (See generally Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1)(A); Fish & G. Code, §§ 2062, 2067.) The Commission determines that there is sufficient scientific information to indicate that designating Livermore tarplant as an endangered species under CESA is warranted at this time and that with adoption and publication of these findings Livermore tarplant for purposes of its legal status under CESA and further proceedings under the California Administrative Procedure Act, shall be listed as endangered.

FISH AND GAME COMMISSION

**NOTICE OF FINDINGS
Townsend’s Big-Eared Bat
(*Corynorhinus townsendii*)**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), at its August 25, 2016 meeting in Folsom, California, made a finding pursuant to Fish and Game Code Section 2075.5, that the petitioned action to add the Townsend’s big-eared bat (*Corynorhinus townsendii*) to the list of threatened or endangered species under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) is not warranted. (See also Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1).)

NOTICE IS ALSO GIVEN that, at its October 20, 2016 meeting in Eureka, California, the Commission adopted the following findings outlining the reasons for its rejection of the petition.

I. BACKGROUND AND PROCEDURAL HISTORY

Petition History

The Center for Biological Diversity (Petitioner) submitted a petition (Petition) to the Commission on November 1, 2012 to list the Townsend’s big-eared bat (*Corynorhinus townsendii*) as threatened or endan-

gered pursuant to the California Endangered Species Act (CESA). The Commission referred the Petition for evaluation to the California Department of Fish and Wildlife (Department) on November 9, 2012 pursuant to Fish and Game Code Section 2073, and published formal notice of receipt of the Petition on November 30, 2012 (Cal. Reg. Notice Register 2012, No 48–Z, p. 1747).

The Department evaluated the Petition, using the information in that document and other relevant information available at that time, and found that the scientific information presented in the Petition was sufficient to indicate that the petitioned action may be warranted. On April 25, 2013 the Department submitted to the Commission its “Evaluation of the Petition from Center for Biological Diversity to List Townsend’s Big-Eared Bat (*Corynorhinus townsendii*) as Threatened or Endangered Under the California Endangered Species Act” (Petition Evaluation). The Department recommended that the Commission accept the Petition pursuant to Fish and Game Code Section 2073.

On June 26, 2013, at its meeting in Sacramento, California, the Commission considered the Petition, the Department’s Petition Evaluation, and public comments, and determined that there was sufficient information in the Petition Evaluation to indicate that the petitioned action may be warranted, accepted for consideration the Petition, and designated the Townsend’s big-eared bat as a candidate species under CESA. (Cal. Reg. Notice Register 2013, No. 52–Z, p. 2092.)

The Department notified affecting parties by issuing a press release, posting notice on the Department’s website, and sending targeted letters to stakeholder groups. (Fish & G. Code, § 2074.4.) Consistent with Fish and Game Code Section 2074.6 and its implementing regulations, the Department commenced a twelve-month status review of the Townsend’s big-eared bat following published notice of its designation as a candidate species under CESA. As an integral part of that effort, the Department solicited data, comments, and other information from interested members of the public and the scientific and academic communities. The Department mailed notice of the Townsend’s big-eared bat’s candidacy and a request for information and comments to approximately 150 persons or offices of state and federal agencies, tribes, counties, industry, and non-governmental organizations. The Department received letters or emails from 39 individuals and organizations. Most of these communications provided information on Townsend’s big-eared bat occurrences in or near public and private lands. A few, including a letter from the Petitioner, argued in support of listing the species as threatened or endangered.

At its meeting on December 3, 2014 in Van Nuys, California, the Commission granted CDFW a six-

month extension to facilitate external peer review. On January 7, 2016, the Department submitted a preliminary draft of its status review for independent scientific peer review by a number of individuals acknowledged to be experts on Townsend’s big-eared bat, possessing the knowledge and expertise to critique the scientific validity of the report. (Fish & G. Code, § 2074.8; Cal. Code Regs., tit. 14, § 670.1, subd. (f)(2).) On June 15, 2016, the Department submitted its final “Status Review of Townsend’s Big-eared Bat (*Corynorhinus townsendii*) in California” to the Commission (Status Review). Based on its Status Review and the best available science, the Department recommended to the Commission that designating Townsend’s big-eared bat as a threatened or endangered species under CESA is not warranted. (Fish & G. Code, § 2074.6; Cal. Code Regs., tit. 14, § 670.1, subd. (f).) Following receipt, the Commission made the Department’s Status Review available to the public, inviting further review and input. (Cal. Code Regs., tit. 14, § 670.1, subd. (g).)

On August 25, 2016, at its meeting in Folsom, California, the Commission received public comment, accepted additional information from the Petitioner and the public, and considered final action regarding the Petition to designate Townsend’s big-eared bat as a threatened or endangered species under CESA. (Fish & G. Code, § 2075.5; Cal. Code Regs., tit. 14, § 670.1, subd. (i).) After receiving public comment, the Commission closed the administrative record of proceedings for the Petition. (Fish & G. Code, § 2075.5, subd. (a).) The Commission considered the Petition, further information submitted by the Petitioner, public comment, the Department’s 2013 Petition Evaluation, the Department’s 2016 Status Review, and other information included in the Commission’s administrative record of proceedings. Following public comment and deliberation, the Commission determined, based on the best available science, that designating Townsend’s big-eared bat as a threatened or endangered species under CESA is not warranted. (Fish & G. Code, § 2075.5, subd. (e)(1); Cal. Code Regs., tit. 14, § 670.1, subd. (i)(2).) The Commission directed its staff, in coordination with the Department, to prepare findings of fact consistent with the Commission’s determination and to present those findings for consideration and ratification at the Commission’s October 20, 2016 meeting in Eureka, California.

Species Description

Townsend’s big-eared bat is a medium sized bat (Barbour and Davis 1969, Kunz and Martin 1982). Among western North American bats, Townsend’s big-eared bat is unique with its combination of a two-pronged, horseshoe-shaped lump on the muzzle and large, long ears. Townsend’s big-eared bat ranges

throughout much of the western United States and Canada. In California, its geographic range is generally considered to encompass the entire state, except for the highest elevations of the Sierra Nevada (Dalquest 1947, Pierson and Rainey 1998, Pierson and Fellers 1998, Szewczak et al. 1998). Townsend's big-eared bat is a colonial species. Maternity colonies form between March and June, with the timing varying based on local climate, elevation, and latitude. Colonies typically range from a few dozen to several hundred individuals, although colonies of over 1,000 have been documented. A single pup is born between May and July (Easterla 1973, Pearson et al. 1952, Twente 1955). While adult males are typically solitary during the maternity season, adult females and their pups cluster together in colonial roosts (Pearson et al. 1952). Nursery colonies typically begin to disperse in August about the time the young are weaned and break up altogether in September and October (Pearson et al. 1952, Tipton 1983). Maximum fecundity per adult female is one pup per year.

Once a roost site has been successfully colonized by Townsend's big-eared bat (whether for the warm or hibernation season), it is likely to be used in subsequent years, so long as it remains suitable (Humphrey and Kunz 1976). However, it is not unusual for individuals to move among multiple maternity colonies and even for entire maternity colonies to switch roosts during the course of the season (Fellers and Pierson 2002, Sherwin et al. 2000, 2003). Some roosts are only used for short periods of time or during occasional years. Townsend's big-eared bat's perceived susceptibility to human disturbance at roost sites is usually cited as a key behavioral characteristic putting the species at conservation risk (Twente 1955, Barbour and Davis 1969, Humphrey and Kunz 1976). Roost abandonment (sometimes resulting in death of pups) has been documented following human entry into roosts.

Diet of Townsend's big-eared bat has not been examined in detail in California; however, it is likely that as elsewhere they are lepidopteran specialists, feeding primarily on medium-sized moths, supplemented with occasional captures of other insects, including flies, beetles, and aquatic insects. Townsend's big-eared bat, like most mammals, maintains a high body temperature primarily through heat produced by its metabolism. Like many bat species inhabiting temperate regions, Townsend's big-eared bat uses torpor as a physiological and behavioral strategy in winter to deal with diminished food resources and cool or cold ambient temperatures, which make it energetically costly to maintain normal high body temperature. Townsend's big-eared bat hibernation sites are generally caves or mines (Pearson et al. 1952, Barbour and Davis 1969), although animals are occasionally found in buildings (Dalquest 1947). In areas with prolonged periods of non-freezing

temperatures, Townsend's big-eared bat tends to form relatively small hibernating aggregations of single to several dozen individuals, and may be active during the winter to take advantage of warm weather and prey availability. Larger aggregations (75–460 individuals) are confined to areas that experience prolonged periods of freezing temperatures (Pierson and Rainey 1998).

Habitat associations for Townsend's big-eared bat in California include the inland deserts (Colorado, Mojave, Great Basin); cool, moist coastal redwood forests; oak woodlands of the Sierra Nevada foothills and coastal mountains; and lower to mid-elevation mixed coniferous-deciduous forests. Townsend's big-eared bat has also been observed hibernating in the bristlecone-limber pine habitat of the White Mountains (Inyo County).

Townsend's big-eared bat prefers open surfaces of caves or cave-like structures, such as mine adits and shafts (Barbour and Davis 1969, Graham 1966, Humphrey and Kunz 1976). It has also been reported in such structures as buildings, bridges, and water diversion tunnels that offer a cave-like environment (Barbour and Davis 1969, Dalquest 1947, Howell 1920, Pierson and Rainey 1998). It has been found in rock crevices and, like a number of bat species, in large hollow trees (Gellman and Zielinski 1996, Fellers and Pierson 2002, Mazurek 2004). Foraging associations include edge habitats along streams and areas adjacent to and within a variety of wooded habitats (Brown et al. 1994, Fellers and Pierson 2002, Pierson et al. 2002). The Department considers any structure, or set of structures, used by Townsend's big-eared bat as a maternity or hibernation roost to be habitat essential for the continued existence of the species. The essential characteristics of these suitable roost sites extend to the nearby foraging, commuting, and night-roosting habitat and therefore these adjacent habitats are also considered essential.

Regulatory Status

The two western subspecies of Townsend's big-eared bat are not currently listed as endangered or threatened nor are they candidates for listing under the federal Endangered Species Act (ESA). Two eastern subspecies are listed as Threatened under the ESA.

NatureServe, a non-profit conservation organization whose mission is to provide the scientific basis for effective conservation action through its network of natural heritage programs, ranks Townsend's big-eared bat as a whole and each of the two non-listed subspecies (*C. t. pallescens* and *C. t. townsendii*) as "G3G4/T3T4" throughout their respective geographic ranges. This designation indicates uncertainty regarding conservation status, which may be characterized as either Apparently Secure (G4/T4) or Vulnerable (G3/T3). Nature-

Serve defines “Vulnerable” as “at moderate risk of extinction or elimination due to a restricted range, relatively few populations, recent and widespread declines, or other factors” and “Apparently Secure” as “Uncommon but not rare; some cause for long-term concern due to declines or other factors.” (<http://explorer.natureserve.org/granks.htm>).

The current version of the International Union for the Conservation of Nature Red List designates Townsend’s big-eared bat as a ‘Least Concern’ species based on the latest assessment of the species range-wide. The IUCN had previously designated the species in 1996 as ‘Vulnerable.’ The Least Concern designation is based on “its wide distribution, presumed large population, occurrence in a number of protected areas and because it is unlikely to be declining at nearly the rate required to qualify for listing in a threatened category.”

II. STATUTORY AND LEGAL FRAMEWORK

The Commission has prepared these findings as part of its final action under CESA regarding the Petition to designate Townsend’s big-eared bat as a threatened or endangered species under CESA. As set forth above, the Commission’s determination that listing Townsend’s big-eared bat is not warranted marks the end of formal administrative proceedings under CESA. (See generally Fish & G. Code, § 2070 et seq.; Cal. Code Regs., tit. 14, § 670.1.) The Commission, as established by the California Constitution, has exclusive statutory authority under California law to designate endangered, threatened, and candidate species under CESA. (Cal. Const., art. IV, § 20, subd. (b); Fish & G. Code, § 2070.)

The CESA listing process for Townsend’s big-eared bat began in the present case with Petitioner’s submittal of its Petition to the Commission in November 2012 (Cal. Reg. Notice Register 2012, No. 48–Z, p. 1747). The regulatory process that ensued is described above in some detail, along with related references to the Fish and Game Code and controlling regulation. The CESA listing process generally is also described in some detail in published appellate case law in California, including:

- *Mountain Lion Foundation v. California Fish and Game Commission* (1997) 16 Cal.4th 105, 114–116;
- *California Forestry Association v. California Fish and Game Commission* (2007) 156 Cal.App.4th 1535, 1541–1542;
- *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, 600, and

- *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104, 1111–1116.

The “is not warranted” determination at issue here for Townsend’s big-eared bat stems from Commission obligations established by Fish and Game Code Section 2075.5(e). Under this provision, the Commission is required to make one of two findings for a candidate species at the end of the CESA listing process: whether the petitioned action is warranted or is not warranted. Here with respect to Townsend’s big-eared bat, the Commission made the finding under Section 2075.5(e)(1) that the petitioned action is not warranted.

The Commission was guided in making this determination by various statutory provisions and other controlling law. The Fish and Game Code, for example, defines an endangered species under CESA as a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease. (Fish & G. Code, § 2062.) Similarly, the Fish and Game Code defines a threatened species under CESA as a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter. (*Id.*, § 2067.)

As established by published appellate case law in California, the term “range” for purposes of CESA means the range of the species within California. (*California Forestry Association v. California Fish and Game Commission, supra*, 156 Cal. App.4th at p. 1540, 1549–1551.)

The Commission was also guided in making its determination regarding Townsend’s big-eared bat by Title 14, Section 670.1, subdivision (i)(1)(A), of the California Code of Regulations. This provision provides, in pertinent part, that a species shall be listed as endangered or threatened under CESA if the Commission determines that the continued existence of the species is in serious danger or is threatened by any one or any combination of the following factors:

1. Present or threatened modification or destruction of its habitat;
2. Overexploitation;
3. Predation;
4. Competition;
5. Disease; or
6. Other natural occurrences or human-related activities.

Fish and Game Code Section 2070 provides similar guidance. This Section provides that the Commission shall add or remove species from the list of endangered and threatened species under CESA only upon receipt of sufficient scientific information that the action is warranted. Similarly, CESA provides that all state agencies, boards, and commissions shall seek to conserve endangered and threatened species and shall utilize their authority in furtherance of the purposes of CESA. (Fish & G. Code, § 2055.) This policy direction does not compel a particular determination by the Commission in the CESA listing context. Yet, the Commission made its determination regarding Townsend’s big-eared bat mindful of this policy direction, acknowledging that “[l]aws providing for the conservation of natural resources’ such as the CESA ‘are of great remedial and public importance and thus should be construed liberally’” (*California Forestry Association v. California Fish and Game Commission*, *supra*, 156 Cal. App.4th at pp. 1545–1546, citing *San Bernardino Valley Audubon Society v. City of Moreno Valley* (1996) 44 Cal.App.4th 593, 601; Fish & G. Code, §§ 2051, 2052.).

Finally, in considering these factors, CESA and controlling regulations require the Commission to actively seek and consider related input from the public and any interested party. (See, e.g., *Id.*, §§ 2071, 2074.4, 2078; Cal. Code Regs., tit. 14, § 670.1, subd. (h).) The related notice obligations and public hearing opportunities before the Commission are also considerable. (Fish & G. Code, §§ 2073.3, 2074, 2074.2, 2075, 2075.5, 2078; Cal. Code Regs., tit. 14, § 670.1, subds. (c), (e), (g), (i); see also Gov. Code, § 11120 et seq.) All of these obligations are in addition to the requirements prescribed for the Department in the CESA listing process, including an initial evaluation of the petition and a related recommendation regarding candidacy, and a 12-month status review of the candidate species culminating with a report and recommendation to the Commission as to whether listing is warranted based on the best available science. (Fish & G. Code, §§ 2073.4, 2073.5, 2074.4, 2074.6; Cal. Code Regs., tit. 14, § 670.1, subds. (d), (f), (h).)

III. FACTUAL AND SCIENTIFIC BASIS FOR THE COMMISSION’S FINDINGS

The factual and scientific bases for the Commission’s finding that designating Townsend’s big-eared bat as a threatened or endangered species under CESA is not warranted are set forth in detail in the Commission’s administrative record of proceedings. The evidence in the administrative record in support of the Commission’s determination includes, but is not limited to, the Department’s 2013 Petition Evaluation and 2016 Status Re-

view, and other information specifically presented to the Commission and otherwise included in the Commission’s administrative record as it exists up to and including the Commission meeting in Folsom, California on August 25, 2016. The administrative record also includes these findings.

The Commission finds the substantial evidence highlighted in the preceding paragraph, along with other evidence in the administrative record, supports the Commission’s determination that the continued existence of Townsend’s big-eared bat in the State of California is not in serious danger of becoming extinct or threatened by one or a combination of the following factors:

1. Present or threatened modification or destruction of its habitat;
2. Overexploitation;
3. Predation;
4. Competition;
5. Disease; or
6. Other natural occurrences or human-related activities.

The Commission also finds that the same evidence constitutes sufficient scientific information to establish that designating Townsend’s big-eared bat as a threatened or endangered species under CESA is not warranted. The Commission finds in this respect that Townsend’s big-eared bat is not in serious danger of becoming extinct throughout all, or a significant portion, of its range in California. Similarly, the Commission finds that Townsend’s big-eared bat is not presently threatened and it is unlikely to become an endangered species in the foreseeable future in the absence of special protection and management efforts required by CESA.

The following Commission findings highlight in more detail some of the scientific and factual information and other evidence in the administrative record of proceedings that support the Commission’s determination that designating Townsend’s big-eared bat as a threatened or endangered species under CESA is not warranted:

1. The Petition relied heavily on a 1998 report prepared for the Department summarizing surveys of Townsend’s big-eared bat maternity colonies and hibernacula throughout much of the species’ range in California during the period from 1987 to 1991, and compared those results to the original site reports from the period of 1918 to 1974 (Pierson and Rainey 1998). Based on these surveys, the report inferred that the Townsend’s big-eared bat population had declined over the several decades before the study. No statewide study assessing the status of the species has been conducted since, although the Department is

currently funding a new statewide survey targeting known and highly suitable locations for maternity and hibernation roosts, and anticipates that an updated snapshot of the species' distribution will be available in 2017. However, from existing information on a number of maternity and hibernation roosts around California, five of six studies concluded that site specific populations are stable or increasing. Although not a statistically valid estimate of population size or trend statewide, the studies do illustrate how colony sizes and threats vary around the state, as well as how management of roosts can directly affect local assemblages of Townsend's big-eared bat.

2. Loss of suitable roosting site habitat is often considered a limiting factor for western bat populations. (Hayes, 2003). Old-growth conifers, a known roosting site of Townsend's big-eared bat (Pierson and Fellers, 1998; Mazurek, 2004; Humphrey and Kunz, 1976), could be impacted by forestry practices, timber operations, loss of oak woodlands, and conversion of forests into agricultural uses. Mining operations and recreational activities in caves and abandoned mines also pose a risk to roosting sites. However, human activities in the late 1800s such as mining and building construction also create available roost habitat, and it is possible that Townsend's big-eared bat distribution merely shifted and redistributed as new roost sites became available (Sherwin et al. 2009).
3. Disturbance to roost sites is a hypothesized threat to Townsend's big-eared bat populations. However, the impact of disturbance is disputed, and it is possible that disturbed roosting colonies may only temporarily abandon those sites (R. Stafford 2014, pers. comm.; Fellers and Halstead 2015). One colony has shown tolerance to disturbance (Freeman 2012). Some studies additionally indicate that colonies may move between multiple roost sites during a maternity season, and more study is needed before concluding that human disturbance is the driving force behind the dynamics of roost use (Sherman et al. 2000, 2003, 2009; Sherwin 2016 pers. comm.). The Department did not find any indication that disturbance of roost sites is a significant threat state-wide.
4. Climate change models evaluating a range of possible future distribution of Townsend's big-eared bat project that the species will fare reasonably well in terms of availability of climatically suitable habitat in California.

5. The Department does not consider overexploitation, predation, or competition to be a significant threat to the Townsend's big-eared bat population in California.

IV. ADDITIONAL CONSIDERATIONS INFORMING THE COMMISSION'S FINAL DETERMINATION

The Commission's determination that designating Townsend's big-eared bat as a threatened or endangered species under CESA is not warranted is informed by various additional considerations. In general, the Fish and Game Code contemplates a roughly twelve-month long CESA listing process before the Commission, including multiple opportunities for public and Department review and input and peer review (See generally Fish & G. Code, § 2070 et seq.; Cal. Code Regs., tit. 14, § 670.1.). From the initial receipt of the Petition in November 2012 through the Commission's decision on August 25, 2016 that listing is not warranted, the Department and the Commission received numerous comments and other significant public input regarding the status of Townsend's big-eared bat from a biological and scientific standpoint and with respect to the petitioned action under CESA. The Commission, as highlighted below, was informed by and considered all of these issues, among others, in making its final determination that designating Townsend's big-eared bat as a threatened or endangered species under CESA is not warranted (Fish & G. Code, § 2075.5, subd. (e)(1); Cal. Code Regs., tit. 14, § 670.1, subd. (i)(2).).

V. SCIENTIFIC DETERMINATIONS REGARDING THE STATUS OF THE TOWNSEND'S BIG-EARED BAT

CESA defines an endangered species as one "which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease." (Fish & G. Code, § 2062.) CESA defines a threatened species as one "that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of special protection and management efforts required by [CESA]." (*Id.*, § 2067.)

Pursuant to CESA's implementing regulations, a "species shall be listed as endangered or threatened . . . if the Commission determines that its continued existence is in serious danger or is threatened by any one or any combination of the following factors: (1) present or threatened modification or destruction of its habitat; (2)

overexploitation; (3) predation; (4) competition; (5) disease; or (6) other natural occurrences or human-related activities.” (Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1)(A).)

Present or Threatened Modification or Destruction of Habitat

- Disturbance, degradation, and loss of suitable roost sites are recognized threats to Townsend’s big-eared bat populations. Natural roost sites include large, old trees and caves, in addition to human-made roosts such as old buildings and mines. Forestry practices, timber operations, conversion of forest to agricultural land, mining activities, and recreational exploration of mines and caves are all activities that could potentially cause loss or disturbance of roost sites. However, the impact of disturbance is hypothesized and still needs further study. Overall there is no current indication that loss or disturbance of roost sites is a significant state-wide threat to the species at this time.
- Impacts to foraging habitat could also affect the species. Land management practices that lead to agricultural development, extensive clear-cutting, or residential and urban development reduce available foraging habitat for the species. It is possible that climate change may affect foraging habitat suitability as well. However, there is no indication that current impacts to foraging habitat pose a significant threat at this time.
- Based on the best scientific information available, the Commission finds that the continued existence of the Townsend’s big-eared bat is not in serious danger or threatened by present or threatened modification or destruction of habitat.

Overexploitation

- Townsend’s big-eared bat is a nongame mammal, and the only collection that does occur in California is on a limited basis for bona fide scientific and educational purposes. The Department regulates collection according to Fish and Game Code Sections 1002 *et seq.* For long-lived/low fecundity species such as Townsend’s big-eared bat, it is possible that repeated scientific collection may have a population impact. There is also a concern that placing of wing bands for scientific research may have a negative impact on individual bats. To address these concerns, the Department carefully controls the activities of scientific researchers working on Townsend’s big-eared bat in California. Given the level of control exerted by

the Department, overexploitation for scientific purposes is not considered to be a threat to the continued existence of Townsend’s big-eared bat in California.

- Based on the best scientific information available, the Commission finds that the continued existence of the Townsend’s big-eared bat population is not in serious danger or threatened by overexploitation.

Predation

- Individual Townsend’s big-eared bat populations may be preyed upon by a variety of native and non-native predators, for example raccoons, bobcats, house cats, skunks, snakes, and rats. However, Pearson et al. (1952) discounted predation as a limiting factor on Townsend’s big-eared bat populations, and the Department does not consider predation a significant threat at this time.
- Based on the best scientific information available, the Commission finds that the continued existence of the Townsends’s big-eared bat population is not in serious danger or threatened by predation.

Competition

- There is no evidence indicating that competition for resources (such as prey, water, and cover habitat) with other native or introduced species is a threat to the continued existence of Townsend’s big-eared bat in California.
- Based on the best scientific information available, the Commission finds that the continued existence of Townsend’s big-eared bat is not in serious danger or threatened by competition.

Disease

- White Nose Syndrome is an important threat to bat species nationwide, and a potential threat to Townsend’s big-eared bat in California. Although White Nose Syndrome was recently detected in Washington State, surveys have yet to detect it in California. Monitoring and research to determine the species’ susceptibility to the disease is needed to assess the level of the threat. However, this disease is not currently impacting Townsend’s big-eared bat in California. Additionally, there is nothing to suggest that Townsend’s big-eared bat populations in California have been subject to recent disease outbreaks.
- Based on the best scientific information available, the Commission finds that the continued existence of the Townsend’s big-eared bat is not in serious danger or threatened by disease.

Other Natural Events or Human-Related Activities

- Mines provide important shelter for Townsend's big-eared bats and may be used year round for their roosting needs. Structurally diverse mines may provide both warm roosts for maternity colonies and cool roosts for hibernation (Pierson and Fellers 1998, Pierson and Rainey 1998, Pierson et al. 1991, 1999). Closure of mines, environmental contamination, and human disturbances may pose a threat to the species. Permanent mine closure methods have resulted in some cases in the destruction of roosting habitat, and mortality of bats by trapping them within the closed mine. California's Abandoned Mine Lands program is actively engaged in reducing hazards associated with open mines, and works with state, federal, and private land owners to ensure that wildlife-compatible closure methods are implemented. These programs should minimize the negative impacts of mine closures on sensitive species, and the Department considers it unlikely that population-level impacts would occur.
- The extent that pesticide use in California impacts Townsend's big-eared bat populations is unknown, although it is likely at least some individuals are impacted where toxins are concentrated through either absorption through the skin or ingestion of contaminated prey or water. It is unknown to what level current and future pesticide use could pose a threat to Townsend's big-eared bat populations.
- Mineral extraction can result in pools of water contaminated with toxic chemicals that pose a threat to wildlife, including bats. Although toxic leach fields and ponds are a potential threat to Townsend's big-eared bat, the Department believes that regulatory oversight of the mining industry minimizes the risks associated with mine toxins to an acceptably low level.
- Climate change modeling using climatic variables to model the current and possible future distribution of Townsend's big-eared bat under four different future climate change projections showed that the species is projected to fare reasonably well in terms of availability of climatically suitable habitat in California. Most of the currently suitable modeled habitat is projected to remain stable, and areas in the north of the state and at higher elevations are projected to increase in suitability. The Department does not believe that climate change is a significant threat to the species.

- Based on the best scientific information available, the Commission finds that the continued existence of the Townsend's big-eared bat is not in serious danger or threatened by other natural events or human-related activities.

Summary of Key Findings

Based on the criteria described above, the best scientific information available to the Commission indicates that Townsend's big-eared bat is not currently in serious danger of becoming extinct in California within the next few decades, nor in the foreseeable future in the absence of special protection and management under CESA.

The current size of the Townsend's big-eared bat population in California is uncertain. While historic data evaluated in the 1998 report indicated a potential decline in the population, more recent studies show that at specific areas throughout the state, local populations of Townsend's big-eared bat have remained stable or even increased in size.

Disturbance, degradation, and loss of suitable roost sites is a recognized threat to Townsend's big-eared bat populations. However, there is no current indication that loss or disturbance of roost sites is a significant state-wide threat to the species at this time. Additionally, although impacts to foraging habitat could also affect the species, there is no indication that current impacts to foraging habitat pose a significant threat at this time.

The Department evaluated other factors, such as overexploitation, predation, competition, disease, and climate change. Based on the Department's analysis, none of these factors is considered to be a serious threat to the continued existence of the Townsend's big-eared bat population in California.

Based on the best scientific information available, the Department concludes the continued existence of the Townsend's big-eared bat is not in serious danger or threatened. Further, the Department generated the following recommendations to prioritize conservation, research, regulation, and monitoring activities.

Research and Monitoring Needs

- Complete comprehensive statewide assessment of Townsend's big-eared bat by 2017.
- Implement consistent long-term monitoring at representative Townsend's big-eared bat roost sites in California, including at both maternity and hibernation roosts.
- Design and test human-made structures suitable for use by Townsend's big-eared bat during the maternity and hibernation seasons.

- Create standardized procedures for monitoring Townsend's big-eared bat populations. Ensure all such studies will not adversely impact the subject populations. This should include formal study of the frequency of roost-switching and other movements, both to determine the degree such human study affects movements and to better understand detection probabilities for roost surveys and to develop guidance on the timing and numbers of survey visits needed to determine occupancy or probable absence.
- Conduct additional analyses of the possible effects of climate change and drought on Townsend's big-eared bat and determine best approaches to address possible adverse effects.
- Conduct research on the role environmental contaminants play in the health of Townsend's big-eared bat populations.
- Develop methods to create basal hollows in suitable large old trees.
- Conduct genetic studies to determine the population genetic structure of Townsend's big-eared bat in California, with special attention to the degree of divergence and isolation of populations on Santa Cruz Island relative to the mainland and between coastal and interior populations.
- Create interagency and other stakeholder cooperation in, and public support for, conservation efforts for Townsend's big-eared bat. Partner with non-governmental organizations such as Bat Conservation International, The Nature Conservancy, and local non-governmental organizations (NGOs) in such efforts.
- Develop greater awareness of Townsend's big-eared bat and other bat conservation and management issues within the Department.
- Direct fiscal and position resources to complete the draft California Bat Conservation Plan.

Management of Known Roost Sites

- Prior to changing management of caves, mines, or buildings that could be used by Townsend's big-eared bat or other bat species, such sites should be evaluated and/or surveyed during appropriate seasons for their use by Townsend's big-eared bat.
- Existing roosts should be left undisturbed and occupied roosts should only be entered for management or research purposes.
- Bat-friendly gates should be installed at Townsend's big-eared bat roosts where other methods of controlling human entrance are not effective. Special consideration should be given to gate design to minimize risk of injury or unsuitability for Townsend's big-eared bat. Corrugated culvert gates should not be used.
- Abandoned mines suitable for use by Townsend's big-eared bat should not be closed in a manner that prevents bat use, or if they cannot be maintained, then adequate mitigation and exclusion should be conducted prior to their closure. If renewed mining will close a mine, mitigation for replacement habitat should be implemented. Mitigation monitoring should be done by the appropriate agency to determine effectiveness.
- Effectiveness monitoring (use of data loggers to passively record bat use and human disturbance) should be implemented at gated roost sites and other roost sites actively managed for bat resources (as through signage, information for visitors, etc.).
- Ensure native vegetation and access to open water and/or riparian habitat within the vicinity of maternity roosts remains suitable for use by Townsend's big-eared bat. Analysis of habitat suitability should be made on a site-specific basis, but start with using the area within a 24-km radius of the roost site.

Department Administrative Actions

- If results of current or future statewide Townsend's big-eared bat surveys indicate a decline in the population status is occurring that may lead to endangerment, prepare a staff recommendation to list the species as Threatened or Endangered for consideration by the Commission.
- Working with partners at state and federal agencies, as well as private landowners, ensure that management of Townsend's big-eared bat roost sites is consistent with continued site occupancy at or above existing population levels.
- Attempt to secure new funding and position resources as a priority to establish a full-time permanent bat specialist position within the Nongame Wildlife Program of the Department to address data assimilation and conservation of bats in California, including Townsend's big-eared bat.
- Support research on the design and effectiveness of human-made structures suitable for use by Townsend's big-eared bat during the maternity and hibernation seasons.

- Where a Townsend's big-eared bat or other bat roost site has a history of recreational use by humans, implement a management plan to ensure new impacts from human use do not occur. The Kentucky Mine Stamp Mill management plan (Tierney and Freeman 2007) is a good example of such a plan that appears to be successful.

Landscape Management Practices

- Developed springs and other water sources should be kept available for in-flight drinking.
- If protracted drought poses a threat to Townsend's big-eared bat, develop additional water sources for drinking and foraging in areas where open water and associated insect prey production might limit population size.
- Restore or enhance riparian habitat.
- Implement basal hollow creation projects to increase opportunities for Townsend's big-eared bat to use tree roosts in coastal redwood forests (and possibly in interior forests where large tree species, such as giant sequoia, have the potential to serve as roost sites).

CEQA Review of Proposed Projects

- Ensure direct and cumulative impacts from projects proposed under CEQA and CEQA-equivalent regulatory programs are not likely to result in a substantial reduction in population or range of Townsend's big-eared bat and other bat species.

Public Education and Outreach

- Conduct and cooperate with other agencies on public outreach events about Townsend's big-eared bat and other bat species.
- Disseminate the California Bat Conservation Plan to the public, when complete.
- Encourage citizen participation, as appropriate, in bat monitoring projects.
- Promote bat-friendly exclusions, including seasonally appropriate timing of exclusions, where it is necessary to remove bats from buildings and other structures.

Health and Disease

- Continue and expand surveillance for White Nose Syndrome (WNS) by state and federal agencies and researchers.
- Support research on the etiology and epidemiology of WNS on *Corynorhinus* species, including Townsend's big-eared bat.

- Continue and expand, if necessary, decontamination requirements for persons entering hibernacula for Townsend's big-eared bat and other hibernating bat species to minimize the risk of introducing the fungus that causes WNS.
- Work with other state and federal regulatory agencies to prevent the introduction of environmental contaminants that may affect the health of Townsend's big-eared bat and other bats. These may include aerial pesticide application and chemicals used in processing mined minerals.

VI. FINAL DETERMINATION BY THE COMMISSION

The Commission has weighed and evaluated all information and inferences for and against designating Townsend's big-eared bat as a threatened or endangered species under CESA. This information includes scientific and other general evidence in the Petition, the Department's 2013 Petition Evaluation, the Department's 2016 peer-reviewed Status Review, and the Department's related recommendations based on the best available science, written and oral comments received from the public and the scientific community, and other evidence included in the Commission's administrative record of proceedings.

Based on the evidence in the administrative record, the Commission has determined that the best scientific information available indicates that the continued existence of Townsend's big-eared bat in California is not in serious danger or threatened in the foreseeable future by present or threatened modifications or destruction of Townsend's big-eared bat habitat, overexploitation, predation, competition, disease, or other natural occurrences or human-related activities. (See generally Fish & G. Code, §§ 2062, 2067; Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1)(A).) The Commission finds, for the same reason, that there is not sufficient scientific information at this time to indicate that the petitioned action is warranted (Fish & G. Code, §§ 2070, 2075.5.). The Commission finds that designating Townsend's big-eared bat as a threatened or endangered species under CESA is not warranted and that, with adoption of these findings, for purposes of its legal status under CESA shall revert to its status prior to the filing of the Petition. (Fish & G. Code, § 2075.5, subd. (e)(1); Cal. Code Regs., tit. 14, § 670.1, subd., (i)(2).)

References

Barbour, R.W. and W.H. Davis. 1969. Bats of America. University Press Kentucky, Lexington. 286 pp.
 Brown, P.E., R. Berry, and C. Brown. 1994. Foraging behavior of Townsend's big-eared bats (*Plecotus*

- townsendii*) on Santa Cruz Island. Pp 367–369 in W.L. Halvorson and G.J. Maender, editors. Fourth California Islands Symposium: Update on the Status of Resources. Santa Barbara Museum of Natural History, Santa Barbara, CA.
- Dalquest, W.W. 1947. Notes on the natural history of the bat *Corynorhinus rafinesquii* in California. *J. Mammalogy* 28:17–30.
- Easterla, D.A. 1973. Ecology of the 18 species of Chiroptera at Big Bend National Park, Texas, Part II. Northwest Missouri State University Studies 34:54–165.
- Fellers, G.M. and B.J. Halstead. 2015. Twenty-five years of monitoring a Townsend's big-eared bat (*Corynorhinus townsendii*) maternity roost. *Northwestern Naturalist* 96(1):22–36.
- Fellers, G.M., and E.D. Pierson. 2002. Habitat use and foraging behavior of Townsend's big-eared bat (*Corynorhinus townsendii*) in coastal California. *J. Mammalogy* 83: 167–177.
- Freeman, K. 2012. Roosting behavior of a maternity colony of Townsend's Big-Eared Bat, *Corynorhinus townsendii*. Humboldt State University. Arcata, CA.
- Graham, R.E. 1966. Observations on the roosting habits of the big-eared bat, *Plecotus townsendii*, in California limestone caves. *Cave Notes* 8(3):17–22.
- Gellman, S.T. and W.J. Zielinski. 1996. Use by bats of old-growth redwood hollows on the north coast of California. *J. Mammalogy* 77(1):255–265.
- Hayes, J.P. 2003. Habitat ecology and conservation of bats in western coniferous forests. *In: Mammal Community Dynamics: Management and Conservation in the Coniferous Forests of Western North America*. C.J. Zabel and R.G. Anthony, eds. Cambridge University Press.
- Howell, A.B. 1920. Some Californian experiences with bat roosts. *J. Mammalogy* 1:169–177.
- Humphrey, S.R., and T.H. Kunz. 1976. Ecology of a Pleistocene relict, the western big-eared bat (*Plecotus townsendii*), in the southern Great Plains. *J. Mammalogy* 57:470–494.
- Kunz, T.H., and R.A. Martin. 1982. *Plecotus townsendii*. *American Society of Mammalogists, Mammalian Species*, 175:1–6.
- Mazurek, M. J. 2004. A maternity roost of Townsend's big-eared bats (*Corynorhinus townsendii*) in coast redwood basal hollows in northwest California. *Northwestern Naturalist* 85: 60–62.
- Pearson, O.P., M.R. Koford, and A.K. Pearson. 1952. Reproduction of the lump-nosed bat (*Corynorhinus rafinesquei*) in California. *J. Mammalogy* 33(3): 273–320.
- Pierson, E.D. and G.M. Fellers. 1998. Distribution and ecology of the big-eared bat, *Corynorhinus townsendii* in California. Biological Resources Division, U.S. Geological Survey, Species at Risk Report, 92 pp.
- Pierson, E.D. and W.E. Rainey. 1998. The distribution, status and management of Townsend's big-eared bat (*Corynorhinus townsendii*) in California. Calif. Dept. of Fish and Game, Bird and Mammal Conservation Program Rep. 96–7. 49 pp.
- Pierson, E.D., P.W. Collins, W.E. Rainey, P.A. Heady, and C.J. Corben. 2002. Distribution, status and habitat associations of bat species on Vandenberg Air Force Base, Santa Barbara County, California, Santa Barbara Museum of Natural History, Santa Barbara CA. Technical Report No 1:1–135.
- Pierson, E.D., W.E. Rainey, and D.M. Koontz. 1991. Bats and mines: experimental mitigation for Townsend's big-eared bat at the McLaughlin Mine in California. Pp. 31–42, *in* Issues and technology in the management of impacted wildlife, Snowmass, CO April 8–10, 1991, Proceedings, Thorne Ecological Institute.
- Pierson E.D., M.C. Wackenhut, J.S. Altenbach, P. Bradley, P. Call, D.L. Genter, C.E. Harris, B.L. Keller, B. Lengus, L. Lewis, B. Luce, K.W. Navo, J.M. Perkins, S. Smith, L. Welch. 1999. Species conservation assessment and conservation strategy for the Townsend's big-eared bat (*Corynorhinus townsendii townsendii* and *Corynorhinus townsendii pallescens*). Idaho Department of Fish and Game.
- Sherwin, R.E., J.S. Altenbach, and D.L. Waldien. 2009. Managing abandoned mines for bats. Resource Publication, Bat Conservation International, 103 pp.
- Sherwin, R.E., W.L. Gannon, and J.S. Altenbach. 2003. Managing complex systems simply: Understanding inherent variation in the use of roosts by Townsend's big-eared bat. *Wildlife Society Bulletin* 31(1):62–72.
- Sherwin, R. E., D. Stricklan, and D.S. Rogers. 2000. Roosting affinities of Townsend's big-eared bat (*Corynorhinus townsendii*) in northern Utah. *J. Mammalogy* 81(4): 939–947.
- Szewczak, J.M., S.M. Szewczak, M.L. Morrison, and L.S. Hall. 1998. Bats of the White and Inyo Mountains of California–Nevada. *Great Basin Naturalist* 58:66–75.
- Tipton, V.M. 1983. [Abstract] Activity patterns of a maternity colony of *Plecotus townsendii virginianus*. *Bat Research News* 24:56–57.

Twente, J.W. 1955: Some aspects of the habitat selection and other behavior of cavern-dwelling bats. *Ecology* 36:706-732.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH 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.

File# 2016-0914-01
 AIR RESOURCES BOARD
 Vapor Recovery Equipment Defects List

This regulatory action by the Air Resources Board updates the Vapor Recovery Equipment Defects List, which is incorporated by reference in section 94006(b) of title 17, of the California Code of Regulations. This list is updated every three years pursuant to Health and Safety Code section 41960.2(c)(2), to identify equipment defects that substantially impair the effectiveness of gasoline vapor recovery systems used in motor vehicle refueling operations and warrant removal of the fueling point from service until the defect is repaired.

Title 17
 AMEND: 94006
 Filed 10/26/2016
 Effective 01/01/2017
 Agency Contact: Trini Balcazar (916) 445-9564

File# 2016-0921-01
 BOARD OF EQUALIZATION
 Change in Ownership — Joint Tenancies

This rulemaking action by the Board of Equalization amends section 462.040 in title 18 of the California Code of Regulations to make the regulation consistent with current law regarding the types of transfers that create "original transferor" status, the change in ownership consequences of transfers terminating interests in joint tenancies, and the applicability of the exclusion from the definition of change in ownership for transfers between cotenants.

Title 18
 AMEND: 462.040
 Filed 10/26/2016
 Effective 01/01/2017
 Agency Contact: Richard Bennion (916) 445-2130

File# 2016-0929-02
 BOARD OF EQUALIZATION
 Temporary Certification/Permanent Certification

This change without regulatory effect by the State Board of Equalization corrects outdated references and information in sections 282 and 283 of title 18 of the California Code of Regulations.

Title 18
 AMEND: 282, 283
 Filed 10/26/2016
 Agency Contact: Richard Bennion (916) 445-2130

File# 2016-0908-01
 DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Prison Rape Elimination Act

This rulemaking action by the Department of Corrections and Rehabilitation amends seven sections and adopts one section in title 15 of the California Code of Regulations to implement the national standards for detection, prevention, reduction, and punishment of prison rape developed as a result of the federal Prison Rape Elimination Act (PREA).

Title 15
 ADOPT: 3401.6 AMEND: 3084.2, 3084.6, 3084.8, 3084.9, 3323, 3335, 3401.5
 Filed 10/20/2016
 Effective 10/20/2016
 Agency Contact: Anthony Carter (916) 445-2220

File# 2016-0908-02
 DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Audio/Video Recording Technology — Pilot Program

This action by the Department of Corrections and Rehabilitation adopts section 3999.21 of title 15 of the California Code of Regulations as a pilot program on audio/video recording technology. This filing is exempt from Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code pursuant to Penal Code section 5058.1 and is not subject to review by the Office of Administrative Law. This filing is effective on filing with the Secretary of State and remains in effect for two years pursuant to Penal Code section 5058.1.

Title 15
 ADOPT: 3999.21
 Filed 10/19/2016
 Effective 10/19/2016
 Agency Contact: Anthony Carter (916) 445-2220

File# 2016-0912-01
DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Inmate Mail and Publications

This action by the Department of Corrections and Rehabilitation amends sections 3134.1 and 3136 of title 15 of the California Code of Regulations and revises Form 1819, which is incorporated by reference in section 3134.1. This action increases the amount of time an inmate has to respond to the notice of disapproved mail, packages, and/or publications from fifteen days to thirty calendar days, updates cross-references to Form 1819, and makes other nonsubstantive changes.

Title 15
AMEND: 3134.1, 3136
Filed 10/20/2016
Effective 10/20/2016
Agency Contact: Sherri Garcia (916) 445-2266

File# 2016-0909-04
DEPARTMENT OF FOOD AND AGRICULTURE
Asian Citrus Psyllid Interior Quarantine

This is an action to make permanent emergency regulatory action 2016-0317-01E by the Department of Food and Agriculture, which expanded the quarantine area for the Asian Citrus Psyllid (ACP), *Diaphorina citri*, to approximately 26 square miles in the Milpitas area of Santa Clara County and into Alameda County. The effect of the emergency action was to provide authority for the state to perform quarantine activities against ACP within this additional area, along with the existing regulated areas.

Title 3
AMEND: 3435(b)
Filed 10/19/2016
Effective 10/19/2016
Agency Contact: Sara Khalid (916) 403-6625

File# 2016-0920-02
FISH AND GAME COMMISSION
Commercial Hagfish Traps

This action by the Fish and Game Commission amends section 180.6 of title 14 of the California Code of Regulations regarding commercial hagfish traps. The amendment repeals the 40-gallon barrel trap requirement and establishes that each barrel trap shall be no greater than 45 inches in length and 25 inches in diameter.

Title 14
AMEND: 180.6
Filed 10/26/2016
Effective 01/01/2017
Agency Contact: Sherrie Fonbuena (916) 654-9866

File# 2016-0915-02
SPEECH-LANGUAGE PATHOLOGY AND
AUDIOLOGY AND HEARING AID DISPENSERS
BOARD

Hearing Aid Dispensers Continuing Education

This is the resubmittal of OAL file no. 2016-0211-02S, which was disapproved by OAL on 3/17/2016. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) filed this action to amend five sections and adopt one section under title 16 of the California Code of Regulations that set forth continuing education requirements for hearing aid dispenser licensees as a condition of license renewal, and eligibility and application requirements for continuing education courses offered by providers.

The originally proposed text was approved by the Board in 2013, but was not put out for public comment until late 2014. The Board submitted OAL file no. 2016-0211-02S after the one-year rulemaking period by using the 90-day statutory extension allowed in Bus. & Prof. Code section 313.1(e)(1). The originally proposed text was modified in two 15-day notice and comment periods, one during the one-year rulemaking period and the second during the 120-day disapproval period. The Board requested and was granted a 90-day extension of the 120-day disapproval period, during which time they held two additional 15-day comment periods to add documents to the rulemaking file, and timely submitted this resubmittal.

Title 16
ADOPT: 1399.140.1 AMEND: 1399.140,
1399.141, 1399.142, 1399.143, 1399.144
Filed 10/25/2016
Effective 01/01/2017
Agency Contact: Karen Robison (916) 263-2291

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN May 25, 2016 TO
October 26, 2016**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

10/18/16 AMEND: 18951
 10/03/16 ADOPT: 649.49 AMEND: 649, 649.3, 649.4, 649.18, 649.50, 649.52, 649.57, 649.60 REPEAL: 649.1, 649.46, 649.51, 649.62
 09/19/16 ADOPT: 18751 REPEAL: 18751
 09/19/16 AMEND: 18215.3, 18232
 09/15/16 AMEND: 18942
 09/13/16 AMEND: 1181.2, 1181.3, 1181.6, 1183.1, 1183.2, 1183.3, 1183.8, 1183.9, 1183.10, 1183.11, 1183.14, 1183.15, 1183.17, 1183.18, 1185.1, 1185.2, 1185.3, 1185.4, 1185.5, 1187.4, 1187.6, 1187.7, 1187.8, 1187.9, 1187.14, 1187.15, 1190.1, 1190.2, 1190.3, 1190.5
 09/07/16 ADOPT: 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016
 08/31/16 AMEND: 18531.5
 08/17/16 AMEND: 18239
 08/17/16 AMEND: 59000
 07/29/16 ADOPT: 599.860
 07/13/16 AMEND: 1859.2, 1859.102 REPEAL: 1866, 1866.1, 1866.2, 1866.3, 1866.4, 1866.4.1, 1866.4.2, 1866.4.3, 1866.4.4, 1866.4.6, 1866.4.7, 1866.5, 1866.5.1, 1866.5.2, 1866.5.3, 1866.5.4, 1866.5.5, 1866.5.6, 1866.5.7, 1866.5.8, 1866.5.9, 1866.7, 1866.8, 1866.9, 1866.9.1, 1866.10, 1866.12, 1866.13, 1866.14
 07/11/16 AMEND: 59560
 06/27/16 AMEND: 1897
 06/23/16 ADOPT: 17010, 17011, 17012, 17013, 17014, 17030, 17031, 17032, 17033, 17034, 17035, 17036, 17037, 17038, 17039, 17040, 17041, 17042, 17043, 17044, 17045, 17046, 17047 REPEAL: 17010, 17030, 17111, 17112, 17113, 17120, 17121, 17122, 17130, 17140, 17141, 17142, 17150, 17151, 17152, 17153, 17160, 17200, 17201, 17210, 17220, 17300, 17400, 17402, 17403, 17404, 17405, 17406, 17408, 17412, 17414, 17416, 17418, 17420, 17422, 17424, 17426, 17430, 17432, 17434, 17435, 17436, 17440, 17442, 17444, 17446, 17448, 17450, 17452, 17454, 17458, 17460, 17461, 17463, 17464, 17466, 17468, 17470, 17471, 17473, 17475, 17477, 17478, 17481, 17482, 17483, 17485, 17486, 17488, 17490, 17491, 17493, 17495, 17498, 17500, 17502, 17504, 17508, 17510, 17512, 17514, 17515, 17516, 17518, 17519,

17520, 17521, 17525, 17527, 17528, 17530, 17532, 17534, 17538, 17542, 17544, 17546, 17548, 17550, 17551, 17552, 17553, 17554, 17555, 17556, 17557, 17558, 17559, 17560, 17561, 17562, 17563, 17564, 17565, 17566, 17567, 17570, 17571, 17572, 17575, 17576, 17580, 17581, 17582, 17588, 17590, 17592

05/25/16 AMEND: 604

Title 3

10/19/16 AMEND: 3435(b)
 10/17/16 ADOPT: 6722 AMEND: 6000, 6618, 6619, 6720, 6723, 6723.1, 6724, 6726, 6732, 6734, 6768.3, 6738.4, 6744, 6761, 6761.1, 6762, 6764, 6766, 6768, 6769, 6770, 6771, 6776, 6782
 10/13/16 AMEND: 3435(b)
 10/12/16 ADOPT: 6302 AMEND: 6414
 10/06/16 REPEAL: 3963
 10/06/16 AMEND: 3435(b)
 09/30/16 AMEND: 3435(b)
 09/27/16 AMEND: 3435(b)
 09/27/16 AMEND: 4603, 3883 REPEAL: 3885
 09/21/16 ADOPT: 302, 303, 304, 304.1, 304.2, 305, 305.1, 305.2, 305.3, 306, 306.1, 306.2, 306.3, 307, 308, 309, 310, 310.1, 311, 312, 313, 314, 315, 316.1, 316.2, 316.3, 316.4, 317, 318, 319, 320.1, 320.2, 320.3, 321, 322, 322.1, 322.2, 322.3, 323, 323.1, 323.2, 324.1, 324.2, 325, 326, 327, 328, 329, 330.1, 330.2, 340
 09/20/16 AMEND: 3435(b)
 09/20/16 AMEND: 3435(b)
 09/16/16 AMEND: 3435(b)
 09/14/16 AMEND: 3435(b)
 09/07/16 ADOPT: 3442
 09/07/16 ADOPT: 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016
 08/29/16 ADOPT: 3591.26
 08/29/16 AMEND: 3435(b)
 08/29/16 AMEND: 3591.2
 08/26/16 AMEND: 3435(b)
 08/25/16 AMEND: 3435(b)
 08/24/16 AMEND: 3435(b)
 08/24/16 AMEND: 1358.7
 08/23/16 AMEND: 3435(b)
 08/03/16 AMEND: 3435(b)
 08/02/16 AMEND: 3435(b)
 08/01/16 AMEND: 3435(b)
 08/01/16 AMEND: 3435(b)
 07/25/16 AMEND: 3024.5
 07/25/16 AMEND: 3435(b)

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07/25/16	AMEND: 3435(b)	07/20/16	AMEND: 30950, 30951, 30951.1, 30952, 30953, 30954, 30955, 30956, 30957, 30958, 30959
07/25/16	AMEND: 3435(b)		
07/21/16	AMEND: 3435(b)	07/14/16	ADOPT: 74117 AMEND: 74110, 74112
07/20/16	AMEND: 3435(b)	07/05/16	REPEAL: 6100, 6101, 6102, 6103, 6104, 6105, 6110, 6111, 6112, 6113, 6115, 6116, 6120, 6125, 6126
07/07/16	AMEND: 3435(b)		
07/05/16	AMEND: 3435(b)	06/15/16	REPEAL: 3820, 3822, 3823, 3824, 3831, 3840, 3860, 3870
07/05/16	AMEND: 3435(b)	05/31/16	REPEAL: 9517.1, 9531, 9532, 9535
06/30/16	ADOPT: 450, 450.1, 450.2, 450.3, 450.4, 451, 452	05/31/16	ADOPT: 11533, 11534 AMEND: 11530, 11531
06/30/16	AMEND: 3435(b)	05/31/16	ADOPT: 11524, 11525 AMEND: 11520, 11521, 11522
06/30/16	AMEND: 3435(b)		
06/28/16	AMEND: 3435(b)	Title 7	
06/22/16	AMEND: 3435(b)	10/06/16	AMEND: 211.5, 213, 215, 218
06/22/16	AMEND: 3435(b)	Title 8	
06/20/16	AMEND: 3591.12	10/17/16	ADOPT: 1532.3, 5204 AMEND: 5155
06/16/16	AMEND: 3435(b)	09/20/16	AMEND: 334
06/13/16	AMEND: 3435(b)	08/02/16	ADOPT: 346, 346.1, 346.2, 350.3, 350.4, 355.1, 355.2, 355.3, 355.4, 355.5, 372.8, 372.9, 376.8 AMEND: 347, 348, 352, 354, 356, 356.1, 356.2, 359, 359.1, 361.3, 364.2, 371, 371.1, 371.2, 372.6, 376.1, 376.4, 376.7, 378, 380, 383, 391.1, 392, 392.4, 392.5 REPEAL: 355
06/13/16	AMEND: 3435(b)	07/28/16	ADOPT: 9792.24.4 AMEND: 9792.23, 9792.24.2
06/08/16	AMEND: 850	06/28/16	AMEND: 5148(c)
06/06/16	ADOPT: 1358.7	Title 9	
06/02/16	AMEND: 3439(b)	09/16/16	ADOPT: 4700, 4710, 4711, 4712, 4713, 4714, 4715, 4716, 4717
06/02/16	AMEND: 3435(b)	06/27/16	ADOPT: 4600, 4601, 4602
06/01/16	AMEND: 3435(b)	06/06/16	AMEND: 811, 812, 823, 836.2, 862, 865, 865.4, 865.5
05/25/16	AMEND: 3435(b)	05/31/16	ADOPT: 7006.5 AMEND: 7019.1, 7020, 7024, 7029.9, 7054, 7055, 7060, 7062, 7062.3, 7122, 7143, 7157, 7164, 7164.4, 7194, 7198 REPEAL: 7004.3, 7019.2, 7022, 7029.3
Title 4		Title 10	
10/17/16	AMEND: 1843.3	09/30/16	ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6536, 6538
10/13/16	AMEND: 1734	09/30/16	ADOPT: 6408, 6410, 6450, 6452, 6454, 6470, 6472, 6474, 6476, 6478, 6480, 6482, 6484, 6486, 6490, 6492, 6494, 6496, 6498, 6500, 6502, 6504, 6506, 6508, 6510, 6600, 6602, 6604, 6606, 6608, 6610, 6612, 6614, 6616, 6618, 6620, 6622
10/11/16	ADOPT: 610	09/29/16	AMEND: 3542, 3570, 3577
09/28/16	AMEND: 1107	09/27/16	AMEND: 3543
09/28/16	AMEND: 1007	09/01/16	ADOPT: 6864
09/15/16	ADOPT: 424, 425, 426, 830, 831, 832, 833, 834, 835, 836 AMEND: 201.5, 303		
09/13/16	ADOPT: 1489.2		
08/29/16	ADOPT: 8078.8, 8078.9, 8078.10, 8078.11, 8078.12, 8078.13, 8078.14		
08/09/16	AMEND: 10031, 10032, 10033, 10035, 10036		
07/25/16	AMEND: 1581, 1843		
07/19/16	AMEND: 5170		
07/19/16	ADOPT: 1866.1 AMEND: 1844		
07/05/16	AMEND: 1689.1		
06/29/16	AMEND: 8034, 8035		
06/15/16	ADOPT: 299 AMEND: 297, 300		
06/14/16	AMEND: 5000, 5033, 5052, 5144, 5205, 5220, 5221, 5230		
Title 5			
09/22/16	ADOPT: 11533, 11534 AMEND: 11530, 11531		
08/30/16	ADOPT: 1700		
08/26/16	AMEND: 27000, 27004		
08/16/16	ADOPT: 80022 AMEND: 80025.3		
08/03/16	AMEND: 19810		
07/27/16	AMEND: 19810		

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08/29/16	AMEND: 3568	06/09/16	AMEND: 1005, 1007, 1008, 1009, 1010, 1011, 1054, 1058, 1070, 1081, 1082, 1084, 1960
08/29/16	AMEND: 3569		
08/10/16	AMEND: 250.30 REPEAL: 5.2000, 5.2001	06/01/16	AMEND: 51.22
08/09/16	AMEND: 2498.6		
08/09/16	AMEND: 2498.4.9	Title 12	
08/09/16	AMEND: 2498.6	08/31/16	AMEND: 452, 453
08/09/16	AMEND: 2498.4.9, 2498.6	08/30/16	ADOPT: 463, 464 AMEND: 461
08/08/16	AMEND: 2498.5	06/17/16	ADOPT: 509
07/11/16	AMEND: 2053, 2053.1, 2054, 2054.1, 2054.2, 2054.3, 2054.5, 2054.6, 2054.7, 2055, 2056, 2057, 2058, 2059, 2061, 2061.1, 2061.2, 2061.3, 2061.4, 2061.5, 2062, 2062.1, 2062.2, 2063, 2063.1, 2063.2, 2063.3, 2064, 2065, 2066, 2066.1, 2066.2, 2066.3, 2066.4, 2066.5, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2077.1, 2078, 2079, 2079.1, 2080, 2081, 2082, 2083, 2083.1, 2084, 2086, 2087, 2088, 2088.1, 2088.2, 2088.3, 2089, 2090, 2091, 2092, 2094, 2094.1, 2094.2, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2101.1, 2101.2, 2101.3, 2102, 2103, 2104 REPEAL: 2054.4, 2060	Title 13	
06/14/16	ADOPT: 6540, 6542, 6544, 6546, 6548, 6550, 6552	10/17/16	AMEND: Appendix Article 2.0
06/07/16	ADOPT: 8100, 8110, 8120, 8130, 8140, 8150	10/17/16	AMEND: 268.12
06/06/16	ADOPT: 6408, 6410, 6450, 6452, 6454, 6470, 6472, 6474, 6476, 6478, 6480, 6482, 6484, 6486, 6490, 6492, 6494, 6496, 6498, 6500, 6502, 6504, 6506, 6508, 6510, 6600, 6602, 6604, 6606, 6608, 6610, 6612, 6614, 6616, 6618, 6620, 6622	10/06/16	AMEND: 15.08
05/31/16	AMEND: 2500, 2501, 2503, 2504, 2505, 2507.1, 2507.2, 2508 REPEAL: 2502	09/20/16	ADOPT: 222.00, 222.02
05/26/16	ADOPT: 6858	09/01/16	AMEND: 550
Title 11		08/23/16	AMEND: 1606, 16.08, Appendix
10/17/16	ADOPT: 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2130, 2131, 2132	07/25/16	AMEND: 1202.1, 1202.2, 1232
09/22/16	AMEND: 1001, 1052, 1053	07/25/16	AMEND: 1900, 1956.8, 1968.2, 1968.5, 1971.1, 1971.5, 2485, 95302, 95662
09/08/16	AMEND: 1001, 1014, 1015, 1055	07/07/16	AMEND: 15.01
08/30/16	ADOPT: 3205 AMEND: 3000, 3001, 3003, 3201, 3203, 3204	06/23/16	ADOPT: 15.08 AMEND: 15.07
08/02/16	AMEND: 1003, 1055, 1081, 1950, 1959	06/23/16	AMEND: 268.10
07/28/16	AMEND: 1005, 1007, 1008	Title 14	
07/08/16	AMEND: 310, 312, 999.1	10/26/16	AMEND: 180.6
06/22/16	AMEND: 1004, 1011	10/17/16	AMEND: 665
		10/06/16	AMEND: 895.1, 898.2
		10/04/16	ADOPT: 17403.3.1 AMEND: 17402, 17403.0, 17405.0
		10/04/16	AMEND: 819, 819.01, 819.02, 819.03, 819.04, 819.05, 819.06, 819.07
		09/27/16	AMEND: Appendix G
		09/22/16	AMEND: 18660.40
		09/13/16	ADOPT: 250.2
		09/08/16	AMEND: 913.4, 933.4
		09/01/16	ADOPT: 820.02
		09/01/16	ADOPT: 798 AMEND: 791, 791.6, 791.7, 792, 793, 794, 795, 796, 797
		09/01/16	ADOPT: 817.04 AMEND: 790
		08/30/16	AMEND: 699.5
		08/15/16	ADOPT: 1666.0, 1666.1, 1666.2, 1666.3, 1666.4, 1666.5, 1666.6, 1666.7, 1666.8, 1666.9, 1666.10, 1666.11, 1666.12, 1666.13, 1666.14, 1666.15, 1666.16 AMEND: 1665.2 REPEAL: 1665.8
		08/03/16	AMEND: 29.85
		08/01/16	ADOPT: 131
		08/01/16	AMEND: 1724.9
		07/27/16	ADOPT: 708.18 AMEND: 265, 353, 360, 361, 362, 363, 364, 364.1
		07/27/16	ADOPT: 708.18 AMEND: 265, 353, 360, 361, 362, 363, 364, 364.1
		07/25/16	AMEND: 13055
		07/18/16	AMEND: 1038
		07/07/16	AMEND: 1120 REPEAL: 1121

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06/30/16 AMEND: 190, 195
06/30/16 AMEND: 18660.23, 18660.24,
18660.25, 18660.33, 18660.34
06/23/16 AMEND: 502, 507
06/16/16 AMEND: 120.7
06/15/16 ADOPT: 8.01
06/09/16 AMEND: 7.50
05/25/16 AMEND: 1670

Title 15

10/20/16 ADOPT: 3401.6 AMEND: 3084.2,
3084.6, 3084.8, 3084.9, 3323, 3335,
3401.5
10/20/16 AMEND: 3134.1, 3136
10/19/16 ADOPT: 3999.21
10/11/16 AMEND: 3000, 3078.1, 3078.2, 3078.3,
3078.4
10/10/16 ADOPT: 3570, 3572, 3573, 3580
AMEND: 3560, 3561, 3562, 3563, 3564,
3565, 3571, 3581, 3582, 3590, 3590.1,
3590.2, 3590.3
09/06/16 ADOPT: 3040.2 AMEND: 3000, 3040.1,
3041, 3041.3, 3043.6, 3379
08/17/16 AMEND: 3000, 3306, 3323
08/11/16 AMEND: 3375.1, 3377
07/13/16 AMEND: 8000, 8001, 8100, 8901
06/29/16 AMEND: 3000, 3054, 3054.1, 3054.2,
3054.3, 3054.4, 3054.5
06/21/16 ADOPT: 3359.8
06/02/16 AMEND: 3000, 3084.7, 3312, 3313,
3314, 3315, 3316, 3317, 3317.1, 3317.2,
3320, 3322, 3326, 3340, 3341.3, 3376,
3378.6

Title 16

10/25/16 ADOPT: 1399.140.1 AMEND:
1399.140, 1399.141, 1399.142,
1399.143, 1399.144
10/18/16 AMEND: 1399.344
10/17/16 ADOPT: 3365.1
10/12/16 AMEND: 1936, 1936.1, 1936.2
10/05/16 ADOPT: 965.1
09/29/16 ADOPT: 119.8 AMEND: 118.5
09/27/16 AMEND: 1313.4
09/19/16 AMEND: 1399.621
09/15/16 AMEND: 1004
09/14/16 AMEND: 1399.523
09/13/16 ADOPT: 1751.8, 1751.9, 1751.10, 1752,
1753, 1754 AMEND: 1735, 1735.1,
1735.2, 1735.3, 1735.4, 1735.5, 1735.6,
1735.7, 1735.8, 1751, 1751.1, 1751.2,
1751.3, 1751.4, 1751.5, 1751.6, 1751.7,
1751.8
09/13/16 AMEND: 2620
09/12/16 ADOPT: 635.1 AMEND: 631, 631.1,
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09/07/16 ADOPT: 1328.1
09/01/16 AMEND: 1399.696
08/30/16 REPEAL: 1054, 1054.1, 1054.2
08/25/16 ADOPT: 1746.4
08/23/16 AMEND: 2043
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08/22/16 AMEND: 1495.1
08/15/16 AMEND: 4110
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08/03/16 AMEND: 1397.12 (renumbered to
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08/01/16 ADOPT: 2071.1, 2087, 2087.1, 2087.2,
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07/28/16 ADOPT: 3395.5 AMEND: 3340.1,
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07/19/16 AMEND: 1355.35
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06/22/16 AMEND: 438
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08/31/16 AMEND: 1597
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07/27/16 ADOPT: 4076
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06/20/16 ADOPT: 2700, 2701, 2702, 2703, 2704,
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06/30/16 AMEND: 1601, 1602, 1604, 1605.1,
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07/26/16 ADOPT: 1475, 1476, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491

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09/30/16 ADOPT: 66387.1, 66387.2, 66387.3, 66387.4, 66387.5, 66387.6, 66387.7, 66387.8, 66387.9

09/16/16 AMEND: 97174

09/12/16 ADOPT: 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.90, 66273.91, 66273.100, 66273.101
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08/31/16 REPEAL: 100031, 100032, 100033, 100034, 100035, 100036, 100037, 100038, 100039, 100040, 100041, 100042

08/01/16 AMEND: 51516.1

07/20/16 AMEND: 97212, 97215, 97225, 97226, 97227, 97228, 97229, 97248, 97252, 97258, 97259, 97260, 97264 REPEAL: 97261

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06/20/16 AMEND: 51179.7

06/09/16 ADOPT: 69600.1, 69600.2, 69600.3, 69600.4, 69600.5, 69600.6, 69600.7

06/08/16 AMEND: 7000

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08/17/16 AMEND: 86500, 86501, 86501.5, 86505.1, 86506, 86522, 86524, 86528, 86561, 86565, 86565.5, 86568.1, 86568.2, 86568.4, 86570, 86575, 86577, 86580, 86587, 86587.1

07/07/16 AMEND: 83074, 83087, 84074, 84087, 86074, 86087, 86574, 86587, 89374, 89387

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10/17/16 ADOPT: 879

10/13/16 AMEND: 2610, 2611, 2632, 2634, 2635, 2636, 2640, 2643, 2644.1, 2652, 2655, 2663, 2664, 2711, 2712, 2713, 2714, 2715, 2722, 2725, 2726, 2727

08/17/16 ADOPT: 3939.50

08/15/16 ADOPT: 350, 350.2, 350.4, 351, 352, 352.2, 352.4, 352.6, 353, 353.2, 353.4, 353.6, 353.8, 353.10, 354, 354.2, 354.4, 354.6, 354.8, 354.10, 354.12, 354.14, 354.16, 354.18, 354.20, 354.22, 354.24, 354.26, 354.28, 354.30, 354.32, 354.34, 354.36, 354.38, 354.40, 354.42, 354.44, 355, 355.2, 355.4, 355.6, 355.8, 355.10,

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07/18/16 AMEND: 2922

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07/18/16 ADOPT: 3909.4

07/14/16 ADOPT: 3909.3

07/12/16 ADOPT: 3929.14

07/11/16 AMEND: 3939.19

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05/31/16 ADOPT: 863, 864, 864.5, 865, 866

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07/28/16 ADOPT: 7062.5, 7065.5 AMEND: 7065

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10/06/16 AMEND: 25603.3

09/08/16 AMEND: 27001

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08/10/16 AMEND: 27001

08/09/16 AMEND: 27001

07/28/16 AMEND: 27001

07/27/16 AMEND: 25805

06/27/16 AMEND: 27001

06/22/16 AMEND: 27001

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08/16/16 ADOPT: 31-136 AMEND: 31-001, 31-002, 31-003, 31-005, 31-040, 31-066, 31-075, 31-101, 31-105, 31-110, 31-115, 31-120, 31-125, 31-135, 31-201, 31-205, 31-206, 31-310, 31-315, 31-335, 31-405, 31-406, 31-410, 31-420, 31-425, 31-430, 31-445, 31-510 REPEAL: 31-515, 31-520

08/01/16 ADOPT: 42-749 AMEND: 41-440,
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