

**TITLE 16. CEMETERY AND FUNERAL BUREAU
DEPARTMENT OF CONSUMER AFFAIRS**

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

**§ 2326, Application for Cemetery Certificate of Authority and Crematory License
§ 2326.01, Crematory; Change of Ownership**

California Code of Regulations (CCR)

NOTICE IS HEREBY GIVEN that the Cemetery and Funeral Bureau (Bureau) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, **must be received by the Bureau at its office no later than Monday, August 19, 2024.**

PUBLIC HEARING AVAILABILITY

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AUTHORITY AND REFERENCE:

Pursuant to the authority vested by Business and Professions Code (BPC) sections 7606, 7712.1, and 7712.9, and to implement, interpret or make specific 7606, 7607, 7712.1, 7712.5, and 7712.9 Business and Professions Code the Bureau is considering amending 2326 and adopting 2326.01 of Title 16 of the CCR as described in this Notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Cemetery and Funeral Bureau (Bureau) licenses, regulates, and investigates complaints against 14 different license categories in California, totaling approximately 11,315 licensees. These licensing categories include funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery broker branch, cemetery broker additional, cemetery salespersons, cremated remains disposers, crematories, crematory managers, hydrolysis facilities, cemetery managers, and private, nonreligious cemeteries. It is the Bureau's duty to enforce and administer the Cemetery and Funeral Act (Chapter 12 (commencing with section 7600) of Division 3 of BPC) (Act). (BPC section 7602, subdivision (a)(2).) The Bureau is authorized to establish necessary rules and regulations for the enforcement of the Act and the laws subject to its jurisdiction. (BPC section 7606.)

In 2023, the Legislature passed Assembly Bill (AB) 1560 (Flora, Chapter 206, Statutes of 2023) amending BPC sections 7712.1 and 7712.9. This law authorizes a new owner of a crematory to apply to the Bureau to assign a crematory license, under certain requirements. The new law requires the new owner to submit an application to assign the crematory license including payment of a fee of \$750 to the Bureau.

There is no existing regulation that specifies the process and procedures for how an applicant seeking a crematory license to be assigned when a change of ownership occurs.

In addition, BPC 7712.2 requires an application for a crematory license shall be made in writing on the form prescribed by the Bureau and filed at the principal office of the bureau, and the application shall be accompanied by the fee provided in BPC 7712.9. Also, CCR 2326(c) prescribes a Crematory License Application for a crematory license shall be filed on the form furnished by the Bureau at the principal office of the Bureau. CCR 2326(c) does not incorporate the form by reference.

This proposal would establish a regulation that specifies the process and procedures for how an applicant seeking the assignment of an existing crematory license when a change of ownership occurs; and also incorporates the initial crematory license application and the application for the assignment of an existing crematory license by reference.

The current version of 16 CCR section 2326, titled "Applications for Cemetery Certificate of Authority and Crematory License," includes these three subdivisions:

- Subdivision (a) delineates the cemetery certificate of authority application requirements to operate a cemetery via a form furnished by the Bureau accompanied by specific documents.
- Subdivision (b) specifies additional provisions a limited liability company applying for a certificate of authority must meet.
- Subdivision (c) delineates the crematory license application requirements via a form furnished by the Bureau accompanied by specific documents.

The Bureau proposes to:

- Amend CCR section 2326 by changing the title from “Application for Cemetery Certificate of Authority and Crematory License” to “Application for Cemetery Certificate of Authority.”
- Amend subdivision 2326(c) by removing the crematory license regulatory text to a newly adopted regulation.
- Adopt CCR section 2326.01, title “Application for Initial Crematory License, or Assignment of an Existing Crematory License.” Subdivision (a) specifies when applying for an initial crematory or assignment of an existing crematory license, the applicant shall submit a completed Bureau form 23-CR (new 1/24), “Crematory License Application or Assignment of an Existing Crematory License” on paper form or electronically, if available. This form shall be used to apply for licensure and incorporates the form by reference. It also specifies the required documents and required fee to be submitted with the application. Subdivision (b) specifies that in addition to the requirements of subdivision (a) of this section, the new owner seeking the assignment of an existing crematory license shall submit to the Bureau the change of ownership to assign an existing crematory license shall occur once the Bureau has approved the application. The new owner shall submit the application to the Bureau at least 30 days before the change of ownership occurs. Copy of the final dated and signed sales agreement shall be submitted to the Bureau within 10-days of the final sale; and within 60 days from the date of the sales agreement the new owner must submit to the Bureau the local air pollution required permit to operate the crematory, the new owner shall file satisfactory proof of the permit issued at least 30 days before the change of ownership occurs.

ANTICIPATED BENEFITS OF PROPOSED REGULATIONS

This proposal would establish a consistent and simple process for an applicant seeking the assignment of a crematory license. In addition, it provides business continuity to the new owner by allowing the new owner to maintain critical services rather than ceasing operations of a crematory to issue a new license when there is a change of ownership.

DETERMINATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING REGULATION(S)

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

INCORPORATION BY REFERENCE

Application for Initial Crematory License, or Assignment of an Existing Crematory License, form 23-CR (New 1/24).

DISCLOSURES REGARDING PROPOSED ACTION:

FISCAL IMPACT ESTIMATES

The regulations result in minor and absorbable costs to the Bureau.

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

The regulations result in one-time (absorbable) workload and costs of approximately \$750 to update and post the (new) Application for Initial Crematory License or Assignment of an Existing Crematory License (New 1/24) to the Bureau’s website.

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

Business Impact:

The Bureau has made an initial determination that the proposed regulatory action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because this proposal only affects already licensed crematories.

The Bureau currently is responsible for 230 licensed crematories throughout California. This regulation is giving the applicant the option to request the assignment of an existing crematory license.

Any workload to complete and submit the application is anticipated to be done within normal business operations and without incurring additional costs.

Business Reporting Requirement

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

Cost Impact on Representative Private Person or Business:

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

Any workload to complete and submit the application is anticipated to be done within normal business operations and without incurring additional costs.

Effect on Housing Costs: None

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not create or eliminate jobs, will not create new businesses, or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California because this proposed regulation applies to licensed crematories seeking the Bureau's approval to change ownership and have a crematory license assigned to the new owner.

Benefits of Regulation:

- As stated above under **ANTICIPATED BENEFITS OF PROPOSED REGULATIONS**, the benefits to the health and welfare of California residents include a consistent and streamlined process for an applicant seeking a crematory license, as well as allowing crematory owners to maintain critical services when there is a change of ownership.
- There are no anticipated benefits to worker safety because this regulatory package allowing the assignment of a licensed crematory has no impact on worker safety.
- There are no anticipated benefits to the state's environment because this regulatory package allowing the assignment of a licensed crematory has no impact on the state's environment.

Effect on Small Business:

The proposed regulations may affect small business.

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated

by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau at 1625 North Market Blvd., Suite S-208, Sacramento, California 95834.

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

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

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

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Bureau 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 the affected private persons and equally effective in implementing the statutory policy or other provision of the law. Interested persons are invited to present statements or arguments orally or in writing relevant to the above determinations at the above scheduled hearing or during the written comment period.

CONTACT PERSON

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

Name: Carolina Sammons
Address: 1625 North Market Boulevard, Suite S-208
Sacramento, CA 95834
Telephone No.: (916) 574-7876
Fax No. (916) 928-7988
Email Address: carolina.sammons@dca.ca.gov

The backup contact person is:

Name: Gina Sanchez
Address: 1625 North Market Boulevard, Suite S-208
Sacramento, CA 95834
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Inquiries concerning the substance of the proposed regulations may be directed to Carolina Sammons at (916) 574-7876.

Copies of the Notice of Proposed Actions the Initial Statement of Reasons, and the text of the regulations can be accessed through the Bureau's website at https://www.cfb.ca.gov/laws_regs/proposed_regs.shtml