



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION

Compliance Review Unit
State Personnel Board
November 17, 2021

TABLE OF CONTENTS

INTRODUCTION	1
EXECUTIVE SUMMARY	2
BACKGROUND	3
SCOPE AND METHODOLOGY	4
FINDINGS AND RECOMMENDATIONS.....	6
EXAMINATIONS.....	6
APPOINTMENTS.....	8
EQUAL EMPLOYMENT OPPORTUNITY	11
PERSONAL SERVICES CONTRACTS	11
MANDATED TRAINING	13
COMPENSATION AND PAY	14
LEAVE.....	21
POLICY AND PROCESSES.....	28
DEPARTMENTAL RESPONSE.....	32
SPB REPLY	32

INTRODUCTION

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California Department of Pesticide Regulation (CDPR) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	Very Serious	Equal Employment Opportunity Questionnaires Were Not Separated from Applications
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	In Compliance	Mandated Training Complied with Statutory Requirements
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Area	Severity	Finding
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Complied with Civil Service Laws, Board Rules and/or CalHR Policies and Guidelines
Leave	Very Serious	Incorrectly Posted Leave Usage and/or Leave Credit ¹
Leave	Very Serious	Incorrect Application of State Service and Leave Transactions
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ²

BACKGROUND

The CDPR's mission is to protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management. The CDPR employs approximately 400 employees within the headquarters complex, Bradshaw Regional, Central Regional, and Southern Regional offices. These employees consist of Environmental Program Managers, Environmental Scientists, Research Scientists, Toxicologists, Administrative and Information Technology staff, and Attorneys.

¹ Repeat finding. August 30, 2018, the CDPR's Compliance Review Report identified 10 discrepancies between leave balances and timekeeping records.

² Repeat finding. August 30, 2018, the CDPR's Compliance Review Report identified 5 of 13 permanent employees who were missing annual performance appraisals.

The CDPR provides oversight of the local pesticide enforcement programs of 55 county agricultural commissioners and their combined staff of approximately 400 biologists.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CDPR's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes³. The primary objective of the review was to determine if the CDPR's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the CDPR's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the CDPR provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CDPR did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the CDPR's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CDPR provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CDPR did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CDPR did not make any additional appointments during the compliance review period.

The CDPR's appointments were also selected for review to ensure the CDPR applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CDPR provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the CDPR did not issue or authorize red circle rate requests, hire above minimum requests, or arduous pay.

³ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

The review of the CDPR's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee.

The CDPR's PSC's were also reviewed.⁴ It was beyond the scope of the compliance review to make conclusions as to whether the CDPR's justifications for the contracts were legally sufficient. The review was limited to whether the CDPR's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The CDPR's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors, managers, and those in Career Executive Assignments (CEA's) were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the CDPR's Leave Activity and Correction Certification forms to verify that the CDPR created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected a small cross-section of the CDPR's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CDPR's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the CDPR employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of the CDPR positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

Moreover, the CRU reviewed the CDPR's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the CDPR's policies and processes adhered to procedural requirements.

⁴ If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

On May 13, 2021, an exit conference was held with the CDPR to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CDPR's written response on May 19, 2021, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, January 1, 2020, through September 30, 2020, the CDPR conducted six examinations. The CRU reviewed those six examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Assistant Director, Pesticide Programs Division	CEA	Statement of Qualifications (SOQ) ⁵	1/28/2020	7
CEA A, Assistant Director, Pesticide Programs Division	CEA	SOQ	1/28/2020	3
CEA A, Director of Communications	CEA	SOQ	6/17/2020	22
CEA B, Assistant Director, Administrative Services	CEA	SOQ	7/29/2020	16
General Auditor II	Departmental Promotion	Education and Experience ⁶	3/17/2020	3
Staff Services Analyst	Departmental Promotion	Written ⁷	1/8/2020	1

SEVERITY: VERY SERIOUS	FINDING NO. 1 EQUAL EMPLOYMENT OPPORTUNITY QUESTIONNAIRES WERE NOT SEPARATED FROM APPLICATIONS
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Summary: Out of six examinations reviewed, one examination included applications where EEO questionnaires were not separated from the STD 678 employment application. Specifically, all three of the applications reviewed for the General Auditor II examination included EEO questionnaires that were not separated from the STD. 678 employment application.

Criteria: Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to

⁵ In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

⁶ In an Education and Experience examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

⁷ A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

any protected category listed in Government Code section 12940, subdivision (a): for example, a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Applicants for employment in state civil service are asked to voluntarily provide ethnic data about themselves where such data is determined by the CalHR to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD 678) states, "This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions."

Severity: Very Serious. The applicants' protected classes were visible, subjecting the agency to potential liability.

Cause: CDPR's failure to separate the EEO questionnaires from the General Auditor II examination was due partially to human error. In addition, more uncontrollably and unforeseeably, the final filing date of this exam occurred on the very day that emergency telework due to the COVID-19 pandemic started. The CDPR discovered that its exam checklist was geared toward entering the information into the Legacy system, and did not explicitly instruct the analyst to separate the form. This is something that would have been explained by the trainer after keying the EEO information into the Legacy system during shadow-style training.

Corrective Action: Within 90 days of the date of this report, the CDPR must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that future EEO questionnaires are separated from all applications. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

For the purposes of temporary appointments, an employment list is considered not to exist where there is an open eligible list that has three or fewer names of persons willing to accept appointment and no other employment list for the classification is available. (Cal. Code Regs., tit. 2, § 265.) In such a situation, an appointing power may make a temporary appointment in accordance with section 265.1 (*Ibid.*) A Temporary Authorization Utilization (TAU) appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII.) In addition, when a temporary appointment is made to a permanent position, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment. (Gov. Code, § 19058.)

During the period under review, January 1, 2020, through September 30, 2020, the CDPR made 77 appointments. The CRU reviewed 12 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
CEA A, Assistant Director, Pesticide Programs Division	CEA	CEA	Full Time	1
CEA A, Assistant Director, Pesticide Programs Division	CEA	CEA	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
CEA A, Director of Communications	CEA	CEA	Full Time	1
Environmental Program Manager I (Supervisory)	Certification List	Permanent	Full Time	1
Environmental Program Manager II	Certification List	Permanent	Full Time	1
Environmental Scientist	Certification List	Permanent	Full Time	1
Office Assistant (General)	Certification List	Limited Term	Full Time	1
Office Tech (Typing)	Certification List	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Training and Development	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Environmental Scientist	Transfer	Permanent	Full Time	1

IN COMPLIANCE	FINDING NO. 2 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CDPR measured each applicant’s ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the six list appointments reviewed, the CDPR ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed two CDPR appointments made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Regs., tit. 2, § 425.) The CDPR verified the eligibility of each candidate to their appointed class.

Eligibility for training and development (T&D) assignments are limited to employees who (1) have permanent status in their present class, or (2) who have probationary status and who previously have had permanent status and who, since such permanent status, have had no break in service due to a permanent separation. (Cal. Code Regs., tit. 2, § 438, subd. (a).) The CRU reviewed one T&D appointment, and determined it to be in compliance with applicable civil service laws and Board rules.

The CRU found no deficiencies in the appointments that the CDPR initiated during the compliance review period. Accordingly, the CRU found that the CDPR's appointments processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

IN COMPLIANCE	FINDING NO. 3 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CDPR's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CDPR. The CDPR also provided

evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC’s, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, January 1, 2020, through September 30, 2020, the CDPR had 16 PSC’s that were in effect. The CRU reviewed six of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Psychological Services Inc., dba PSI	Online Licensing Exams	7/1/20 – 6/30/21	\$480,000	Yes	Yes
Quantum Resolve Inc.	In-Plane Switching (IPS) proprietary software upgrade and training	2/19/20 – 6/30/21	\$111,750	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Stanfield Systems, Inc.	Consulting services for Pesticide Regulation Database Management System (PRDMS)	1/1/20 – 12/30/22	\$57,605	Yes	Yes
University of North Carolina	Waste water assessment	3/1/20 – 12/31/21	\$440,366	Yes	Yes
VPI Strategies	Leadership Training for senior management personnel	9/8/20 – 12/31/21	\$29,580	Yes	Yes
Western Washington University	Macro-invertebrate community structure model	1/30/20 – 8/31/22	\$60,000	Yes	Yes

IN COMPLIANCE	FINDING NO. 4 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC’s reviewed was \$1,179,301. It was beyond the scope of the review to make conclusions as to whether CDPR justifications for the contract were legally sufficient. For all PSC’s reviewed, the CDPR provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, the CDPR complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CDPR PSC’s complied with civil service laws and board rules.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as “filers”) because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a

semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Additionally, new supervisors must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two hours of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the CDPR’s mandated training program that was in effect during the compliance review period, October 1, 2018, through September 30, 2020.

IN COMPLIANCE	FINDING NO. 5	MANDATED TRAINING COMPLIED WITH STATUTORY REQUIREMENTS
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The CDPR provided ethics training to all 13 new filers selected for review, within six months of appointment and, for all 65 existing filers selected for review, “at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter.” In addition, the CDPR provided sexual harassment prevention training its 14 new supervisors within six months of appointment, and sexual harassment prevention training to its 81 existing supervisors every two years. Thus, the CDPR complied with mandated training requirements within statutory timelines.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments

calculate and determine an employee's salary rate⁸ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, January 1, 2020, through September 30, 2020, the CDPDR made 77 appointments. The CRU reviewed eight of those appointments to determine if the CDPDR applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Environmental Program Manager I (Supervisory)	Certification List	Permanent	Full Time	\$11,265
Environmental Program Manager II	Certification List	Permanent	Full Time	\$13,989
Environmental Scientist	Certification List	Permanent	Full Time	\$5,923
Office Assistant (General)	Certification List	Limited Term	Full Time	\$2,668
Office Technician (Typing)	Certification List	Permanent	Full Time	\$3,144
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	\$7,732
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,738
Environmental Scientist	Transfer	Permanent	Full Time	\$5,255

IN COMPLIANCE	FINDING NO. 6 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the salary determinations that were reviewed. The CDPDR appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

⁸ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, January 1, 2020, through September 30, 2020, the CDPR employees made 16 alternate range movements within a classification. The CRU reviewed 11 of those alternate range movements to determine if the CDPR applied salary regulations accurately and correctly processed each employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Associate Toxicologist	A	B	Full Time	\$6,671
Environmental Scientist	B	C	Full Time	\$5,923
Environmental Scientist	B	C	Full Time	\$5,923
Environmental Scientist	B	C	Full Time	\$5,923
Environmental Scientist	B	C	Full Time	\$5,923
Environmental Scientist	B	C	Full Time	\$5,923
Environmental Scientist	A	B	Full Time	\$4,680
Environmental Scientist	B	C	Full Time	\$5,923
Environmental Scientist	A	B	Full Time	\$4,680
Environmental Scientist	A	B	Full Time	\$4,680
Personnel Specialist	B	C	Full Time	\$4,094

IN COMPLIANCE	FINDING NO. 7 ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU determined that the alternate range movements the CDPR made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, January 1, 2020, through September 30, 2020, the CDPR issued bilingual pay to 16 employees. The CRU reviewed eight of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Environmental Scientist	R10	Full Time	3
Information Officer I (Specialist)	R01	Full Time	1
Office Technician (Typing)	R04	Full Time	1
Senior Environmental Scientist (Specialist)	R10	Full Time	2
Special Investigator	R07	Full Time	1

IN COMPLIANCE	FINDING NO. 8 BILINGUAL PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the bilingual pay authorized to employees during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select

classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, January 1, 2020, through September 30, 2020, the CDPR issued pay differentials⁹ to 43 employees. The CRU reviewed 10 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Associate Toxicologist	434	3%
Office Assistant (General)	443	9.23%
Research Scientist II	434	2%
Research Scientist III	434	2%
Research Scientist III (Chemical Sciences)	434	2%
Research Scientist III (Chemical Sciences)	434	3%
Research Scientist III (Physical/Engineering Services)	434	2%
Senior Toxicologist	434	3%
Staff Services Analyst (General)	441	\$250
Staff Toxicologist (Specialist)	181	5%

⁹ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

IN COMPLIANCE	FINDING NO. 9 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differentials that the CDPR authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments and Pay

For excluded¹⁰ and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Classification and Pay Guide Section 375.)

During the period under review, January 1, 2020, through September 30, 2020, the CDPR issued OOC pay to nine employees. The CRU reviewed seven of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

¹⁰ “Excluded employee” means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Personnel Analyst	R01	Staff Services Manager I	11/15/2019 – 2/14/2020
Environmental Program Manager I (Supervisory)	S10	Assistant Director, Pesticide Programs Division (CEA)	10/28/2019 – 2/29/2020
Senior Environmental Scientist (Supervisory)	S10	Environmental Program Manager I	7/31/2020 – 11/27/2020
Senior Environmental Scientist (Supervisory)	S10	Environmental Program Manager I	10/28/2019 – 5/24/2020
Senior Environmental Scientist (Supervisory)	S10	Environmental Program Manager I	5/12/2020 – 9/11/2020
Staff Services Manager I	S01	Staff Services Manager II	11/15/2019 – 2/14/2020
Staff Services Manager II (Supervisory)	S01	Staff Services Manager III	11/6/2019 – 2/14/2020
Associate Personnel Analyst	R01	Staff Services Manager I	11/15/2019 – 2/14/2020

SEVERITY: VERY SERIOUS	FINDING NO. 10	INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
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Summary: The CRU found one error in the CDPR’s authorization of OOC pay:

Classification	Out-of-Class Classification	Description of Finding	Criteria
Senior Environmental Scientist (Supervisory)	Environmental Program Manager I	The department failed to recalculate OOC pay after a March 2020 Merit Salary Adjustment resulting in underpayment.	Pay Differential 101

Criteria: Employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in writing and the employee is given a copy of the assignment; and the duties performed by the employee are not described in a training and development assignment or by the specification for the class to which the excluded employee is appointed and, are fully consistent with the types of jobs described in the specification for the higher classification; and the employee does not perform such duties for more than 120 days in a fiscal year. (Cal. Code Regs., tit. 2, § 599.810, subd. (b)(1)(3)(4).)

For excluded employees, there shall be no compensation for assignments that last for 15 consecutive working days or less. (Cal. Code Regs., tit. 2, § 599.810, subd. (c).) An excluded employee performing in a higher class for more than 15 consecutive working days shall receive the rate of pay the excluded employee would receive if appointed to the higher class for the entire duration of the assignment, not to exceed one year. (Cal. Code Regs., tit. 2, § 599.810, subd. (d).) An excluded employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the appointing power files a written statement with the CalHR certifying that the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. (Cal. Code Regs., tit. 2, § 599.810, subd. (e).)

Severity: Very Serious. The CDPR failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

Cause: CDPR's failure to recalculate out-of-class pay after a Merit Salary Adjustment (MSA) was due to human error. Additionally, prior to the onset of the COVID-19 pandemic, the CDPR did not have a documented process in place to check for an MSA before keying out-of-class pay.

Corrective Action: Within 90 days of the date of this report, the CDPR must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days¹¹ worked and paid absences¹², are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year.

¹¹ For example, two hours or ten hours count as one day.

¹² For example, vacation, sick leave, compensating time off, etc.

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

At the time of the review, the CDPR had 23 positive paid employees whose hours were tracked. The CRU reviewed eight of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
Research Scientist III (Epidemiology/Biostatistics)	Intermittent	Retired Annuitant	959.5 Hours
Scientific Aid	Intermittent	Temporary	1,496 Hours
Scientific Aid	Intermittent	Temporary	1,167 Hours
Scientific Aid	Intermittent	Temporary	595.5 Hours
Scientific Aid	Intermittent	Temporary	1,407 Hours
Scientific Aid	Intermittent	Temporary	706.5 Hours
Seasonal Clerk	Intermittent	Temporary	1,090 Hours
Senior Environmental Scientist (Specialist)	Intermittent	Retired Annuitant	276.7 Hours

IN COMPLIANCE	FINDING NO. 11	POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CDPR provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also be granted when employees need time off for reasons such as blood or organ donation, extreme weather preventing safe travel to work, states of emergency; voting, and when employees need time off to attend special events. (*Ibid.*)

During the period under review, July 1, 2019, through June 30, 2020, the CDPR placed 30 employees on ATO. The CRU reviewed 10 of these ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Business Service Officer I (Specialist)	6/8/2020 – 6/9/2020	2 days
Environmental Program Manager I (Supervisory)	4/21/2020 – 5/22/2020	10 days
Environmental Program Manager II	4/17/2020 – 5/29/2020	10 days
Environmental Scientist	8/23/2019 – 8/29/2019	7 days
Environmental Scientist	1/8/2020 – 1/8/2020	3 hours
Environmental Scientist	2/11/2020 – 2/11/2020	4 hours
Environmental Scientist	6/1/2020 – 6/1/2020	1 day
Research Scientist III	4/13/2020 – 5/18/2020	7 days
Senior Toxicologist	5/15/2020 – 5/29/2020	7 days
Staff Services Analyst	3/17/2020 – 3/23/2020	7 days

IN COMPLIANCE	FINDING NO. 12	ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CDPR's provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review

and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. *(Ibid.)* If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. *(Ibid.)* Attendance records shall be corrected by the pay period following the pay period in which the error occurred. *(Ibid.)* Accurate and timely attendance reporting is required of all departments and is subject to audit. *(Ibid.)*

During the period under review, April 1, 2020, through June 30, 2020, the CDPR reported 24 units comprised of 419 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
May 2020	200	25	25	0
May 2020	500	39	39	0
June 2020	300	33	33	0
June 2020	403	19	19	0

SEVERITY: VERY SERIOUS	FINDING NO. 13	INCORRECTLY POSTED LEAVE USAGE AND/OR LEAVE CREDIT
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Summary: The CDPR did not correctly enter 1 of 64 timesheets into the Leave Accounting System during the May 2020 pay period. As a result, one employees retained their prior leave balance despite having used leave credits. This is the second consecutive time this has been a finding for the CDPR.

Criteria: Departments shall create a monthly internal audit process to verify that all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. *(Ibid.)* Attendance records shall be corrected by the pay period following the pay period in which the error occurred. *(Ibid.)*

Severity: Very serious. Errors in posting leave usage and/or leave credits puts the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

Cause: CDPR's failure to correctly post leave usage was due to human error.

Corrective Action: Within 90 days of the date of this report, the CDPR must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Human Resources Manual Section 2101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

State Service

The state recognizes two different types of absences while an employee is on pay status; paid or unpaid. The unpaid absences can affect whether a pay period is considered to be a qualifying or non-qualifying pay period for state service and leave accruals.

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.¹³ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the

¹³ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁴ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

Permanent intermittent employees also earn leave credits on the pay period following the accumulated accrual of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period, are not counted or accumulated towards leave credits.

During the period under review, January 1, 2020, through September 30, 2020, the CDPR had two employees with non-qualifying pay period transactions. The CRU reviewed both of those transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	1
Qualifying Pay Period	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 14	INCORRECT APPLICATION OF STATE SERVICE AND LEAVE TRANSACTIONS
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Summary: The CRU found the two errors in the CDPR’s state service transactions:

Type of Transaction	Time Base	State Service Incorrectly Posted	Leave Accruals Incorrectly Posted
Qualifying Pay Period	Full Time	1	1

Criteria: In the application of Government Code section 19837, an employee shall be considered to have a month of state service if the employee either: (1) has had 11 or more working days of service in a monthly pay period; or (2) would have had 11 or more working days of service

¹⁴ As identified in Government Code section 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

in a monthly pay period but was laid off or on a leave of absence for the purpose of lessening the impact of an impending layoff. (Cal. Code Regs., tit.2, § 599.608.) Absences from state service resulting from permanent separation for more than 11 consecutive working days which fall into two consecutive pay periods shall disqualify one of the pay periods. (*Ibid.*)

Hourly or daily rate employees working in a state agency in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit.2, § 599.609.) When an employee has a break in service or changes to full-time, any combination of time worked which does not equal one qualifying month of full-time service shall not be accumulated or counted. (*Ibid.*)

Severity: Very Serious. For audit purposes, accurate and timely attendance reporting is required of all departments. If the length of an informal leave results in a non-qualifying pay period, a state service transaction must be processed. Inappropriately authorizing state service credits and leave accruals to employees who did not earn them results in a monetary loss for the department.

Cause: CDPR's failure to correctly post state service and leave accruals was due to human error.

Corrective Action: Within 90 days of the date of this report, the CDPR must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure state service transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations.

(Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. *(Ibid.)* Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. *(Ibid.)* Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. *(Ibid.)* All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. *(Ibid.)*

IN COMPLIANCE	FINDING NO. 15	NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the policy was disseminated to all staff and emphasized the C DPR’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the C DPR’s nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers’ Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers’ compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee’s “personal physician,” as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work-related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers’ compensation coverage is not mandatory for volunteers as it is for employees. *(Ibid.)* This is specific to the legally uninsured state departments participating in the Master Agreement. *(Ibid.)* Departments with an insurance policy for workers’ compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. *(Ibid.)*

In this case, the CDPR did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 16	WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the CDPR provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRU verified that when the CDPR received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must "prepare performance reports." Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee's probationary period.

The CRU selected 20 permanent CDPR employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Accounting Officer (Specialist)	9/18/2019
Associate Business Management Analyst	12/31/2019
Associate Governmental Program Analyst	11/30/2019
Associate Governmental Program Analyst	8/13/2019
Environmental Program Manager I	12/17/2019
Environmental Scientist	11/30/2019
Environmental Scientist	8/31/2019
Environmental Scientist	8/13/2019
Research Scientist III (Chemical Sciences)	11/5/2019
Senior Environmental Scientist (Specialist)	10/23/2019
Senior Environmental Scientist (Specialist)	10/19/2019
Senior Environmental Scientist (Specialist)	10/3/2019

Classification	Date Performance Appraisals Due
Senior Environmental Scientist (Specialist)	8/13/2019
Senior Environmental Scientist (Supervisory)	11/30/2019
Staff Services Analyst (General)	12/31/2019
Staff Services Analyst (General)	12/17/2019
Staff Services Analyst (General)	10/22/2019
Staff Toxicologist (Specialist)	12/17/2019
Senior Environmental Scientist (Specialist)	6/7/2019
Senior Environmental Scientist (Specialist)	5/14/2019

SEVERITY: SERIOUS	FINDING NO. 17	PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The CDPR did not provide annual performance appraisals to any of the 20 employees reviewed after the completion of the employee's probationary period. This is the second consecutive time this has been a finding for the CDPR.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

Severity: Serious. The department does not ensure that all of its employees are appraised of work performance issues and/or goals in a systematic manner.

Cause: During the date range which was reviewed for this audit, the CDPR's interpretation of the performance appraisal requirements was that employees were not required to have a performance appraisal until at least 12 months after their last probation report. As such, the CDPR did not think it was required to provide a performance appraisal for any employee who had not been off probation for at least 12 months.

Corrective Action: Within 90 days of the date of this report, the CDPR must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

DEPARTMENTAL RESPONSE

The CDPR's response is attached as Attachment 1.

SPB REPLY

Based upon the CDPR's written response, the CDPR will comply with the corrective actions specified in these report findings. Within 90 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified must be submitted to the CRU.



Department of Pesticide Regulation

Gov. Gavin Newsom
Governor

Jared Blumenfeld
Secretary for
Environmental Protection

Val Dolcini
Director

May 19, 2021

Ms. Suzanne M. Ambrose, Executive Officer
State Personnel Board
801 Capitol Mall, Suite 1200
Sacramento, CA 95814

Dear Ms. Ambrose,

The California Department of Pesticide Regulation (CDPR) is in receipt of, and appreciates the interactive opportunity to discuss, the draft State Personnel Board (SPB) Compliance Review Report. The Department recognizes the importance of evaluations to ensure personnel practices are properly applied and adhered to in accordance with civil service laws, rules and regulations.

CDPR acknowledges the findings in the May 2021, SPB Compliance Review Report. Detailed below are the out of compliance findings along with the CDPR's cause, response and corrective measures that have already been applied.

1. FINDING NO. 1: EQUAL EMPLOYMENT OPPORTUNITY QUESTIONNAIRES WERE NOT SEPARATED FROM APPLICATIONS

Cause: CDPR's failure to separate the EEO questionnaires from the General Auditor II examination was due partially to human error, which was exacerbated by the uncontrollable and unforeseeable circumstances under which this examination was completed – specifically, the final filing date of this exam occurred on the very day that emergency telework due to the COVID-19 pandemic started. Upon closer investigation, we discovered that our exam checklist was more geared toward entering the information into the Legacy system, and did not explicitly instruct the analyst to separate the form – this is something that would have been explained by the trainer after keying the “app flap” into the Legacy system during shadowing-style training.

CDPR's Response: While the EEO questionnaires remained attached to the exam applications in the exam file, they were not shared outside of HR's Exam Unit, nor were they revealed in any way to the hiring unit, and the information on those questionnaires in no way impacted any hiring decisions. CDPR's Exam Unit utilizes checklists for keying information in the Legacy system. To prevent the above from happening again, we have added a note to our checklist to remind exam analysts to confidentially destruct the EEO questionnaires once the information is keyed into Legacy.

2. FINDING NO. 10: INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY

Cause: CDPR's failure to recalculate out-of-class pay after a Merit Salary Adjustment (MSA) was due to human error, as well as CDPR not having a documented process in place to check for a MSA before keying out-of-class pay. In addition, this was at a time when the global pandemic hit State departments, and CDPR had to quickly react to a changing situation that required the need to adjust HR processes to allow for remote work.

CDPR's Response: CDPR's Classification & Pay Unit utilizes a checklist for processing Request for Personnel Action (RPA) packages. To prevent the above from happening again, we have added a note to our checklist to remind C&P analysts to check for MSAs when determining out-of-class pay.

3. FINDING NO. 13: INCORRECTLY POSTED LEAVE USAGE AND/OR LEAVE CREDIT

Cause: CDPR's failure to correctly post leave usage was due to human error.

CDPR's Response: At the time, CDPR was still using paper timesheets and manually keying leave usage. This timesheet was missed, and therefore, the leave usage was not keyed. Utilizing paper timesheets and having to manually key all leave usage creates a high probability of human error. As of January 2021, CDPR has switched over to an electronic timekeeping system, Tempo. Not only will Tempo reduce errors in posting leave usage, since it is mostly automatic, but it will also greatly reduce the chance of Transactions staff completely overlooking timesheets. Additionally, the Transactions Unit performs the required monthly leave auditing to ensure leave usage transfers appropriately to the SCO system.

4. FINDING NO. 14: INCORRECT APPLICATION OF STATE SERVICE AND LEAVE TRANSACTION

Cause: CDPR's failure to correctly post state service and leave accruals was due to human error.

CDPR's Response: In this specific case, the employee did not have sufficient leave for the pay period, so CDPR had to do a retroactive 715 transaction, but forgot to go back and correct the state service and leave accruals.

5. FINDING NO. 17: PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES

Ms. Suzanne M. Ambrose
May 19, 2021
Page 3

Cause: During the date range which was reviewed for this audit, CDPR's interpretation of the performance appraisal requirements was that employees were not required to have a performance appraisal until at least 12 months after their last probation report. Since a performance appraisal is supposed to account for the previous 12 months of an employee's performance, we did not think it was required to provide a performance appraisal for any employee who had not been off probation for at least 12 months.

CDPR's Response: CDPR has since reevaluated our interpretation of the government code and implemented the practice (and policy revision as of 11/22/2019) of requiring performance appraisals for all staff who are not actively on probation in our 2020 performance appraisal campaign which achieved 100% compliance. CDPR corrected this issue in November of 2019 by implementing our updated Performance Appraisal policy, which requires a performance appraisal for each employee that is not currently on probation as of the annual due date (June 30). In some cases, employees may receive a Performance Appraisal shortly after passing probation, but this method will ensure that employees do not go more than 12 months without receiving a performance evaluation. CDPR implemented this practice in 2020, and received all required performance appraisals for that year. CDPR will continue this practice indefinitely to ensure compliance with this requirement. Additionally, a staff member is assigned to receive, track, and monitor performance appraisals throughout the annual campaign, and to follow up on any outstanding performance appraisals to ensure that they are completed and filed timely.

Thank you again for the opportunity to discuss and respond to the draft SPB Compliance Review Report. If you have any questions, please contact Melissa Paden, Human Resources Chief at 916-322-4553 or by email at Melissa.Paden@cdpr.ca.gov.

Sincerely,

Christina Bugai, Assistant Director, Administrative Services Division
California Department of Pesticide Regulation

The Corrective Action Response (CAR) is an opportunity for departments to demonstrate necessary steps have been implemented to correct the non-compliant Findings (deficiency) found as a result of the Compliance Review.

For each non-compliant Finding, refer to the Corrective Action section of that Finding in the review report. Copies of relevant documentation demonstrating that the Corrective Action has been or is in the process of being corrected must be included with the CAR. Examples include, but are not limited to, updated internal policies or procedures (should be included for most findings), a training log for mandated training, and/or any new or updated forms, plans, or documents that have been implemented.

CORRECTIVE ACTION RESPONSE

DEPARTMENT: Department of Pesticide Regulation	BRANCH/DIVISION/PROGRAM: Human Resources Branch/Administrative Services Division
CONTACT PERSON (NAME AND TITLE): Melissa Paden, Personnel Officer	CORRECTIVE ACTION RESPONSE DATE: 2/18/2022

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)	POLICY/PROCEDURE
Finding as stated in the report, by number	Description of 1) completed or planned corrective action(s) and 2) of supporting documentation	Actual or Estimated Completion Date	Is a copy of the updated Policy or Procedure Included?
Finding NO. 1	DPR's Exam Unit utilizes checklists for keying information in the Legacy system. To prevent this finding from happening again, we have added a note to our checklists to remind exam analysts to confidentially destroy the EEO questionnaires once the information is keyed into Legacy.	5/19/2021	Yes – See attached old and new exam checklists
Finding NO. 10	DPR's Classification & Pay Unit utilizes a checklist for processing Request for Personnel Action (RPA) packages. To prevent this finding from happening again, we have added a note to our checklist to remind C&P analysts to check for MSAs when determining out-of-class pay.	5/19/2021	Yes – See attached old and new RPA checklists

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)	POLICY/PROCEDURE
Finding NO. 13	As of January 2021, DPR has switched over to an electronic timekeeping system, Tempo. Not only will Tempo reduce errors in posting leave usage, since it is mostly automatic, but it will also greatly reduce the chance of Transactions staff completely overlooking timesheets. Additionally, the Transactions Unit performs the required monthly leave auditing to ensure leave usage correctly posts to the SCO system. When errors occur, the Transactions staff will manually key the corrections. We have also created new Leave Auditing Procedures to ensure corrections are caught and fixed timely.	1/1/2021	Yes – See attached New Leave Auditing Procedures
Finding NO. 14	DPR will ensure Transactions staff are properly trained to know that when an employee has a non-qualifying pay period, the employee does not receive state service credit and leave accruals for that pay period. To assist with training, we have created a new checklists in regard to employees on temporary leave status as well as procedures for non-qualifying pay period corrections. Also, DPR will have Transactions staff notify the Transactions supervisor when they make any corrections related to a non-qualifying pay period. The supervisor will be responsible for reviewing and ensuring everything is keyed/corrected appropriately in the SCO system.	5/19/2021	Yes – See attached Temporary Leave Checklist and NON QPP-Corrections Procedures
Finding NO. 17	DPR corrected this issue as of November 2019. We implemented our updated Performance Appraisals policy on November 22, 2019, which requires a performance appraisal for each employee that is not currently on probation as of the annual due date (June 30). A specific staff member in Human Resources is assigned to receive, track, and monitor performance appraisals throughout the annual campaign, and to ensure that performance appraisals are completed and filed timely. In 2020 and 2021, DPR followed our updated policy and received all required performance appraisals. DPR will continue this practice indefinitely to maintain compliance.	11/22/2019	Yes – See attached old and new Performance Appraisals Policy, HRB Procedures, and 2021 PAS Compliance Spreadsheet