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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. STATE FAIR LEASING AUTHORITY

NOTICE OF INTENTION TO ADOPT A CONFLICT-OF-INTEREST CODE OF THE STATE FAIR LEASING AUTHORITY

NOTICE IS HEREBY GIVEN that the STATE FAIR LEASING AUTHORITY, pursuant to the authority vested in it by section 87300 of the Government Code proposes its Conflict-of-Interest Code.

The STATE FAIR LEASING AUTHORITY proposes to adopt its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. A written explanation of why each position was selected and the reasons for the disclosure categories is available.

The STATE FAIR LEASING AUTHORITY is authorized to pledge and lease property, issue revenue bonds, and pursue other agreements to deal with the deferred maintenance issues and the revitalization of facilities in accordance with the master plan for the long-range comprehensive development, maintenance, and improvement of the property of the California Exposition & State Fair. Copies of the proposed code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed code by submitting them in writing no later than April 9, 2012, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than March 23, 2012, by contacting the Contact Person set forth below.

The STATE FAIR LEASING AUTHORITY has determined that the proposed code:

1. Imposes no mandate on local agencies or school districts.
2. Imposes no costs or savings on any state agency.
3. Imposes no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries should be directed to:

Linda V. Contreras
 c/o State Fair Leasing Authority
 P.O. Box 15649, Sacramento, CA 95852
 916-263-3276
lcontreras@calexpo.com

TITLE 2. STATE LANDS COMMISSION

NOTICE OF PROPOSED RULEMAKING

**TITLE 2. ADMINISTRATION
 DIVISION 3. STATE PROPERTY OPERATIONS
 CHAPTER 1. STATE LANDS COMMISSION
 ARTICLE 4.7. PERFORMANCE STANDARDS
 AND ASSESSMENT PROTOCOLS FOR
 THE DISCHARGE OF BALLAST WATER
 FOR VESSELS OPERATING IN
 CALIFORNIA WATERS**

The California State Lands Commission (Commission) will decide whether to adopt the regulations as described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

It is proposed that the Commission amend Sections 2291, 2292, and 2293, and amend, renumber and adopt Section 2297(a-g) under Article 4.7 of Title 2, Division 3, Chapter 1 of the California Code of Regulations. These amendments would make substantive and sufficiently related changes to existing regulations, amend the requirements for the installation of ballast water sampling ports, and establish protocols to take ballast water samples and assess vessel compliance with California's performance standards for the discharge of ballast water.

Specifically:

- The amendments to Section 2291 are for clarification purposes.
- The amendments to Section 2292 repeal and amend some existing terminology and adopt new terms to enhance the clarity and continuity of Article 4.7.
- The amendments to Section 2293 fix a previous error that created an inconsistency between existing regulations and the governing statute (Public Resources Code (PRC) Section 71205.3). Public Resources Code Section 71205.3 requires the Commission “to implement the interim performance standards for the discharge of ballast water recommended in accordance with Table x-1 of the California State Lands Commission Report on Performance Standards for Ballast Water Discharged in California Waters, as approved by the commission on January 26, 2006.” Table x-1 specifies the maximum value for each standard. Section 2293, as originally adopted in 2007, establish each standard as “less than” that maximum value. It was incorrect for staff to establish limits less than the maximum values set forth in the Table x-1. Therefore to more accurately represent the standards present in the table, Section 2293 is amended so that each standard is listed as “equal to or less than”.
- The proposed amendments to Section 2297 encompass several components. Sections 2297(a-b) would establish a) that “Vessel Compliance Protocol Version 2012” shall be used to assess vessel compliance with California’s performance standards for the discharge of ballast water, and b) the time period that vessels may be “grandfathered” under any one version of the protocols. Section 2297(c) amends the requirements for the installation of ballast water sample ports on vessels subject to Article 4.7. Section 2297 (d-g) proposes the adoption of new regulations to govern the collection, analysis and handling of ballast water samples that will be used to assess vessel compliance with the provisions of Article 4.7.

The proposed actions would assist with the implementation of the provisions of PRC Sections 71205.3 and 71206 in accordance with authority granted by PRC Section 71201.7 and Section 71207.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulatory action to Commission staff. The

written comment period closes at 5:00 p.m. on April 17, 2012. All written comments must be received at the Commission by that time. Written comments should be submitted to:

Ravindra Varma
Supervisor, Planning Branch
California State Lands Commission
Marine Facilities Division
200 Oceangate, Suite 900
Long Beach, CA 90802
Phone: (562) 499-6400

Written comments may also be submitted by facsimile at (562) 499-6317 or by email to ravi.varma@slc.ca.gov. All written comments submitted via e-mail must include “**Article 4.7 Comments**” in the subject line of the e-mail.

PUBLIC HEARING

The Commission staff has scheduled a public hearing on the proposed action. The hearing will be held on Tuesday, April 17, 2012 at 10:00 a.m. The location of the hearing is:

Port of Long Beach
925 Harbor Plaza, 6th Floor (Board Room)
Long Beach, CA 90802

The Board Room is handicap accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action. The Commission staff requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony. The public hearing will conclude once all who are present and wish to speak have had an opportunity to speak.

AUTHORITY AND REFERENCE

PRC Section 71201(d) declares that the purpose of the Marine Invasive Species Act (the Act) is to move the State expeditiously towards elimination of the discharge of nonindigenous species into waters of the State. Public Resources Code Section 71201.7 provides the Commission with the authority to adopt regulations as necessary to implement the provisions of the Act. The proposed regulations would implement, interpret and make specific the enforcement of PRC Section 71205.3. Inspection and enforcement of the provisions in the Act are specifically mandated by PRC Section 71206 and 71207.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California enacted the Marine Invasive Species Act in 2003 (see Public Resources Code Section 71200 *et*

seq.). Public Resources Code Section 71205.3 requires the Commission to adopt regulations governing interim and final performance standards for the discharge of ballast water. Title 2, Division 3, Chapter 1, Article 4.7 was approved in October 2007 and implements California's performance standards for the discharge of ballast water.

Public Resources Code Section 71205.3 was amended by the California Legislature in 2008 to delay the initial implementation of the performance standards for vessels with a ballast water capacity of less than 5000 metric tons. Accordingly, Article 4.7 was amended to ensure consistency between the statute and regulation.

Public Resources Code Section 71206 requires Commission staff to inspect at least 25% of arriving voyages for compliance with the law. California's performance standards are a discharge standard and any assessment of vessel compliance must be undertaken using ballast water samples from the discharge line (pipe). Vessels are not traditionally constructed with ports that allow ballast water to be sampled from the discharge line. Therefore, Article 4.7 was amended again in 2009 to require vessels, from which ballast water is discharged into the waters of the state, to install equipment for sample collection on the discharge line that would enable assessment of vessel compliance with California's performance standards.

Article 4.7 was further amended in 2010 to adopt Section 2297.1 which incorporated by reference two forms: the "Treatment Technology Annual Reporting Form" and the "Ballast Water Treatment Supplemental Reporting Form" in accordance with PRC 71205(g). These forms were adopted to enable Commission staff to obtain information regarding the installation and use of ballast water treatment technologies on board vessels operating in California waters.

The proposed rulemaking would amend Sections 2291, 2292, and 2293, and amend, renumber and adopt Section 2297(a–g) of Article 4.7 of Title 2, Division 3, Chapter 1 of the California Code of Regulations. These amendments would provide clarity to existing regulations, amend the requirements for the installation of ballast water sampling facilities, and establish protocols to take ballast water samples and assess vessel compliance with California's performance standards for the discharge of ballast water.

More specifically, the amendments to Section 2291 are for clarity purposes. The implementation date for the regulation was repealed from Section 2291 several years ago because the date had passed. The title of the section, however, was never amended to reflect the fact that the date of implementation was no longer applicable. The proposed amendment would clarify the title to reflect the current contents of the section.

The amendments to Section 2292 repeal and amend some existing terminology and adopt new terms to enhance the clarity and continuity of Article 4.7. The terms "Isokinetic Sampling Facility," "Isokinetic Diameter," "Sampling Facilities," and "Sampling Point" are repealed because the related content is repealed in Section 2297(c), and thus these terms are no longer necessary. The term "Colony Forming Unit" is being amended to reflect better scientific accuracy about the meaning of the term. The terms "Ballast Water Treatment System" "Photomicrograph," "Sampling Port" and "Sedgewick Rafter Counting Chamber" are proposed to be adopted to assist with the clarity of Section 2297 (Protocols for the Assessment of Vessel Compliance with the Performance Standards). Finally, the numbering of the section is amended for clarity purposes.

The amendments to Section 2293 fix a previous error that created an inconsistency between the regulations and the governing statute (PRC Section 71205.3). Public Resources Code Section 71205.3 requires the Commission "to implement the interim performance standards for the discharge of ballast water recommended in accordance with Table x–1 of the California State Lands Commission Report on Performance Standards for Ballast Water Discharged in California Waters, as approved by the commission on January 26, 2006." Table x–1 does not specify that the standards must be set as "less than" each standard, as set forth in the table. Therefore to more accurately represent the standards present in the table, Section 2293 is amended so that each standard is listed as "equal to or less than". The change is necessary to ensure consistency between the statute and regulation.

The proposed amendments to Section 2297 encompass several components. Section 2297(a) would establish a naming provision for the ballast water compliance protocols, so that revised versions of the protocols are identified by the year of adoption (e.g. Version 2012). Section 2297(b) would establish the compliance period (or "grandfathering" timeframe) for vessels inspected according to the relevant version of protocols established in Section 2297. Should inspection protocols change in the future, the "grandfathering" language ensures that vessel owners/operators will have sufficient time to upgrade equipment, if necessary, to continue to comply with any new compliance protocol version adopted within Article 4.7. Section 2297(c) amends the requirements for the installation of ballast water sample ports on vessels subject to Article 4.7. The proposed amendments would simplify the requirements for the installation of sampling ports. The previously adopted language was overly complex and required complex mathematical and engineering analyses to comply with the provisions of the Section. The proposed language is

more straightforward and reduces the burden on vessels associated with sample port selection and installation. Section 2297 (d–e) proposes the adoption of new regulations to govern the collection and analysis of ballast water samples that will be used to assess vessel compliance with the provisions of Article 4.7. These protocols are necessary to clearly establish a procedure by which Commission staff will collect ballast water samples and analyze those samples for compliance with standards for each of the organism size classes set forth in Section 2293.

As part of the proposed methods of compliance assessment and sample analysis in Section 2297(e), the following document is incorporated by reference:

Huq, A., C.A. Grim, R.R. Colwell, G.B. Nair. 2006. Detection, isolation, and identification of *Vibrio cholerae* from the environment. Current Protocols in Microbiology: 6A.5.

Finally, Section 2297 (f–g) proposes to establish procedures for sample handling (chain of custody) and laboratory analysis. These procedures are being proposed to ensure that there is no contamination or mishandling of samples during the analysis process and to ensure that samples are legally defensible.

BENEFITS ANTICIPATED BY THE PROPOSED ACTION

Commission staff anticipates that the proposed rulemaking will benefit the state’s environment by ensuring that Commission staff has the tools and protocols in hand to assess vessel compliance with California’s performance standards for the discharge of ballast water. Vessels that are complying with the performance standards will significantly reduce the numbers of nonindigenous species being discharged into California waters. Nonindigenous species create impacts to native species’ abundance and diversity. For example, in San Francisco Bay, the overbite clam (*Corbula amurensis*) spread throughout the region’s waterways within two years of being detected in 1986. The clam accounts for up to 95% of the living biomass in some shallow portions of the bay floor (Nichols et al. 1990). It is believed to be a major contributor to the decline of several pelagic fish species in the Sacramento–San Joaquin River Delta, including the threatened delta smelt, by reducing the plankton food base of the ecosystem (Feyrer et al. 2003, Sommer et al. 2007). Thus the environment will benefit significantly by enforcement of this important regulation and a reduction in the number of nonindigenous species being discharged into California waters.

Additionally, Commission staff anticipates that the proposed action will benefit the health and welfare of California residents by ensuring that Commission staff

has the tools and protocols in hand to assess vessel discharge compliance with California’s performance standards for the discharge of ballast water. Vessels that are complying with the performance standards will significantly reduce the numbers of harmful nonindigenous species that may impact human health that are being discharged into California waters (e.g. harmful algae blooms, toxic dinoflagellates, microorganisms that cause paralytic shellfish poisoning, human intestinal parasites, and disease–causing bacteria such as *Vibrio cholera*). Thus the human health will benefit significantly by enforcement of this important regulation and a reduction in the number of harmful and toxic disease–causing species being discharged into California waters.

Finally, the proposed regulations will benefit the regulated industry by increasing the openness and transparency of government. The proposed regulations specifically delineate the protocols that will be used by Commission staff to assess vessel discharge compliance with California’s performance standards. Therefore vessels should know exactly what action will be performed when Commission staff board for inspection purposes, and thus the proposed regulations should assist vessels with complying with the law.

COMPATIBILITY WITH EXISTING STATE REGULATIONS

The proposed regulations are consistent and compatible with existing state regulations governing the management of ballast water discharges. The proposed regulations make clarifying amendments and adopt procedures to assess vessel compliance with existing performance standards for the discharge of ballast water. There are no other state regulations that establish methods of assessing vessel compliance with the state’s ballast water performance standards.

DIFFERENCES FROM FEDERAL REGULATIONS

The U.S. federal government has not yet adopted performance standards for the discharge of living organisms in ships’ ballast water. The United States Coast Guard (USCG) and the U.S. Environmental Protection Agency (EPA) have proposed regulations and a draft permit, respectively, for the establishment of federal performance standards, but as of the publication of this proposed rulemaking in the California Notice Register these federal actions have not been adopted and/or implemented. Because the federal government has not yet adopted performance standards, it has also not yet adopted methods to assess vessel compliance with those standards. Thus the proposed regulations have no equivalent at the federal level. If standards are adopted

by the federal government, Public Resources Code Section 71271 requires that the Commission submit a report to the Legislature and recommend repeal of the provisions of the Marine Invasive Species Act “only” if it finds that the federal program is equally or more effective at implementing and funding effective controls on the release of aquatic species into the waters of the state than the program described in this division.

DISCLOSURES REGARDING THE PROPOSED ACTION

Commission staff, acting on behalf of the Commission, has made the following determinations:

Local Mandate

Commission staff has determined that the proposed regulations do not impose any mandates on local agencies or school districts.

Fiscal Impacts

Commission staff has determined that the proposed regulations do not impose any mandate or cost requiring state reimbursement to any local agency or school district pursuant to Government Code Sections 17500 *et seq.* No other non-discretionary cost or savings imposed on local agencies is anticipated.

Commission staff has determined that no costs or savings to any other state agencies are anticipated.

Commission staff has determined that the proposed regulation will have no impact on costs or savings in federal funding to the State.

Housing Costs

Commission staff has determined that the proposed regulation will have no significant effect on housing costs.

Statement Regarding Adverse Economic Impacts Directly Affecting Businesses, Including Ability to Compete

Commission staff has determined that the proposed regulation will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Statement of the Results of the Economic Impact Assessment

Through the Economic Impact Assessment, Commission staff has determined that the proposed regulation will have no significant effect upon any of the following:

- (1) Creation or elimination of jobs within the State of California;
- (2) Creation of new business or the elimination of existing businesses within the State of California;

- (3) Expansion of businesses currently doing business within the State of California; and
- (4) Worker safety.

Commission staff has determined that the proposed regulation will benefit:

- (1) The state’s environment by ensuring that Commission staff has the tools and protocols in hand to assess vessel discharge compliance with California’s performance standards for the discharge of ballast water. The proposed regulations meet the purpose of the Marine Invasive Species Act (Public Resources Code Section 71201(d) to “move the state expeditiously toward elimination of the discharge of nonindigenous species into the waters of the state. . .” The proposed regulations also make the compliance assessment transparent to the regulated community and should assist vessels with complying with the law. Vessels that are complying with the performance standards will significantly reduce the numbers of nonindigenous species being discharged into California waters, and therefore the environment will benefit significantly by enforcement of this important regulation.
- (2) The health and welfare of California residents by ensuring that Commission staff has the tools and protocols in hand to assess vessel discharge compliance with California’s performance standards for the discharge of ballast water. The proposed regulations also make the compliance assessment transparent to the regulated community and should assist vessels with complying with the law. Vessels that are complying with the performance standards will significantly reduce the numbers of harmful nonindigenous species (e.g. harmful algae blooms, toxic dinoflagellates and disease-causing bacteria such as *Vibrio cholerae*) being discharged into California waters, and therefore human health and welfare will benefit significantly by enforcement of this important regulation.

Cost Impacts on Representative Persons or Businesses

The proposed regulations are largely requirements placed on Commission staff in the way of protocols that will be used to assess vessel compliance with California’s performance standards for the discharge of ballast water. The Marine Invasive Species Control Fund covers the costs associated with the inspection and enforcement of the Marine Invasive Species Act (PRC Section 71200 *et seq.*) including the proposed vessel compliance assessment protocols.

The portion of the proposed regulations that will have a cost impact on representative persons or businesses is

the requirement for the installation of sampling ports (Section 2297(c)) in the event that a vessel operator chooses to discharge ballast water into the waters of the state. After consulting with two marine engineering firms, The Glosten Associates (Seattle, WA) and Herbert Engineering (Alameda, CA), the proposed amendments to Section 2297(c) are anticipated to cost \$1200–\$5000 per vessel for the one–time installation of the sampling port, if one is not already installed. The cost range covers the variability in labor costs for sample port installation between the U.S. and international locations and the variation in the quality of materials selected for the sample port equipment. Vessels that require more than one sampling port to cover multiple discharge pipes may incur additional costs. The total cost per vessel is not expected to exceed \$5000.

The proposed regulations will not have a significant adverse economic impact directly affecting businesses operating in California. Any additional costs to representative persons or businesses associated with compliance with California’s performance standards and assessment protocols for the discharge of ballast water result from the statutory establishment of performance standards for the discharge of ballast water for vessels operating in California waters (see PRC Section 71205.3). The proposed regulations simply clarify the compliance assessment process.

Business Report

Commission staff has determined that the proposed regulation will not impose any reporting requirements upon businesses operating in the State.

Small Business Determination

Commission staff has determined that the adoption of this regulation will not affect small businesses. None of the businesses that will be governed by these proposed regulations can be considered to be a ‘small business’ as defined in Government Code § 11342.610.

CONSIDERATION OF ALTERNATIVES

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

Commission staff initially considered a “no project” alternative. This alternative would have consisted of not developing regulations to govern the establishment of protocols to assess vessel compliance with California’s performance standards for the discharge of ballast water. While Commission staff is required to inspect vessels, there is no requirement for the specific procedures of the inspection process to be established via regulation. Commission staff determined that the proposed regulation was essential to provide transparency to the regulated community so that vessel owners, operators, agents and treatment technology vendors could understand exactly how vessels would be inspected for compliance with California’s performance standards. This transparency is necessary to help provide industry with the necessary tools to assess ballast water treatment system performance and verify that options are available for vessels, based on each vessel’s specific needs, to meet California’s performance standards, as determined by the protocols being set forth by the proposed regulations.

Therefore, Commission staff proceeded with the development of the proposed regulations in response to requirements established by PRC Sections 71207, 71206 and 71205.3 under authority granted by PRC Section 71201.7. In order to develop the most effective and least burdensome regulations possible that would still fulfill the requirements established by the aforementioned Sections of the PRC, Commission staff convened a Technical Advisory Group (TAG) consisting of scientists, marine engineers and representative stakeholders from the shipping industry, environmental organizations, and other government agencies. Staff convened the TAG for four meetings held between June and November 2011. During the initial three meetings (June, August, October 2011), Staff convened only the scientists and engineers to discuss the technical and scientific components of ballast water sample collection and analysis. During the final TAG meeting (November 2011), Staff convened the entire TAG including industry representatives. Prior to the final TAG meeting, the draft proposed regulations were distributed and then discussed during the meeting.

Discussions during the TAG meetings brought forth many alternatives for the methods and equipment required for sample collection and disposal. Originally Commission staff believed that it was necessary to adopt prescriptive requirements for the disposal of ballast water samples. Staff believed that the regulation should establish the type of pipe and fittings required for staff to connect hoses and dispose of ballast water samples, once all compliance analyses had been completed. However, after consultation with industry engineers during the TAG meetings and in follow–up communications, staff considered an alternative proposal to

set a performance standard for the disposal of ballast water samples. That alternative proposal (the one finally accepted by Staff and proposed in this rulemaking package) requires vessels to provide a mechanism for sample disposal but does not limit the vessel to specific methods or equipment for disposal of ballast water samples.

The TAG also discussed multiple methods of sample analysis. The methods put forth in the proposed rulemaking encompass methods that are consistent with scientific analyses being conducted by the federal and international scientific community and are the most up-to-date scientific procedures of analysis available. Records of the TAG discussions including the discussion of alternative procedures are available for public review as part of this rulemaking and are listed in the Initial Statement of Reasons under “Technical, Theoretical, and/or Empirical Study, Reports or Documents Relied Upon.”

Commission staff invites interested persons to present statements or arguments with respect to additional alternatives to the proposed regulation during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulation may be directed to:

Nicole Dobroski
 Environmental Program Manager
 California State Lands Commission
 Marine Facilities Division
 100 Howe Avenue, Suite 100 South
 Sacramento, CA 95825-8202
 Telephone: (916) 574-0742
 Facsimile: (916) 574-1950
 nicole.dobroski@slc.ca.gov

Or to:

Mark A. Meier
 Assistant Chief Counsel
 California State Lands Commission
 100 Howe Avenue, Suite 100 South
 Sacramento, CA 95825-8202
 Telephone: (916) 574-1853
 Facsimile: (916) 574-1855
 mark.meier@slc.ca.gov

Requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any or other information upon which the rulemaking is based should be directed to:

Ravindra Varma
 Supervisor, Planning Branch
 California State Lands Commission
 Marine Facilities Division
 200 Oceangate, Suite 900
 Long Beach, CA 90802
 Telephone: (562) 499-6400
 Facsimile: (562) 499-6317
 Email: ravi.varma@slc.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, ECONOMIC IMPACT ASSESSMENT AND INFORMATION UPON WHICH PROPOSED RULEMAKING IS BASED

Commission staff will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices in Sacramento and Long Beach, as listed above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the economic impact assessment, and relevant sources of information upon which the proposed rulemaking is based. Copies of any of the aforementioned files may be obtained by contacting Ravindra Varma as listed above or by visiting the website listed below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT OF ORIGINALLY PROPOSED REGULATIONS

After considering all timely and relevant comments, the Commission may adopt the proposed regulations substantially as described in this notice. If modifications are made that are sufficiently related to the original proposed text, the modified text, with changes clearly indicated, shall be made available to the public for at least fifteen days prior to the date on which the Commission considers adoption of the regulations. Requests for copies of any modified regulations should be sent to the attention of Ravindra Varma at the address or telephone number indicated above. Copies of any modified regulations will also be available on the website listed below. Commission staff will accept written comments on the modified regulation for at least fifteen days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ravindra Var-

ma at the address or telephone number listed above or by visiting the website listed below.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the proposed text of regulations, Economic Impact Assessment, relevant documents, and any future changes or modifications to the proposed text can be accessed through our website at:

http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Ballast_Water_Default.html

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

Notice of Proposed Rulemaking

45-Day Notice

The Department of Food and Agriculture amended subsection 3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Quarantine as an emergency action that was effective on October 19, 2011. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than April 16, 2012.

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

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to lraings@cdfa.ca.gov. **The written comment period closes at 5:00 p.m. on April 9, 2012.** The Department will consider only comments received at the Department offices by that time. Submit comments to:

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

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321). Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as she deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

The specific benefits of the amendment of this regulation include preventing regulation of the whole State by the Federal government, expanded public awareness of the consequences of infested fruit movement, and increased Department awareness of possible illegal commodity importation within the quarantined area.

There is no existing, comparable federal regulation or statute regulating the intrastate movement of Oriental fruit fly host material.

The proposed regulation is not inconsistent or incompatible with any existing state regulations.

AMENDED TEXT

The amendment effective October 19, 2011 established approximately 75 square miles in the Anaheim area of Los Angeles and Orange counties as an additional area under quarantine for Oriental fruit fly. The effect of this proposed change to the regulation was to establish authority for the State to perform quarantine activities against Oriental fruit fly in this area.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

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

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

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

Cost impacts on a representative private person or business: The cost impact of the amended regulation on a representative private person or business located within the regulated area is estimated at a minimum of approximately \$90 to a maximum of \$104. The Department anticipates these costs would only occur for a year.

Significant effect on housing costs: None.

Small Business Determination

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

ECONOMIC IMPACT ANALYSIS

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

The Department is not aware of any specific benefits of the amendment of this regulation to the health and welfare of California residents or worker safety. The amendment of this regulation will enable the Department to perform quarantine activities and to prevent the artificial spread of the Oriental fruit fly, an exotic invasive pest, which will help protect the environment [Gov. Code sec. 11346.3(b)].

ALTERNATIVES CONSIDERED

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

ry policy or other provision of law than the proposal described in this Notice.

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

AUTHORITY

The Department proposes to amend Section 3423 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

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

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is:

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

In her absence, you may contact Stephen Brown at (916) 654-1017.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (<http://www.cdfa.ca.gov/plant/Regulations.html>).

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

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

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

ANNUITY NONFORFEITURE REGULATIONS

DATE: February 6, 2012 REGULATION FILE: REG-2007-00039

SUBJECT OF PROPOSED RULEMAKING

Notice is hereby given that a public hearing will be held regarding the adoption of a new Article 10.2 to be set forth in Title 10, Chapter 5, Subchapter 3 of the California Code of Regulations (“CCR”). (All references to CCR sections in this Notice are references to sections in CCR Title 10.) The proposed new Article 10.2, titled “Annuity Nonforfeiture,” consists of new Sections 2523, 2523.1, 2523.2, 2523.3, 2523.4, 2523.5, and 2523.6.

The proposed regulations implement, interpret, and make specific the provisions of Insurance Code Section 10168.25, which regulates annuity nonforfeiture amounts. With some exceptions, the proposed regulations generally follow the provisions of the National Association of Insurance Commissioners (“NAIC”) Model Regulation # 806 (“NAIC Model # 806” or “the Model”) and incorporate them into California law.¹

AUTHORITY AND REFERENCE

The Insurance Commissioner proposes the adoption of California Code of Regulations Title 10, Chapter 5,

¹ The NAIC is an organization comprised of the chief insurance regulatory officials from all 50 states, the District of Columbia, and five U.S. territories. One of the NAIC’s many activities is to assist regulators with financial and market conduct regulation by fostering the development of NAIC model regulations. Individual states incorporate provisions of NAIC model regulations into their own laws to promote uniformity between the states and to incorporate new developments in insurance industry regulation into their own regulations.

Subchapter 3, Article 10.2, Sections 2523, 2523.1, 2523.2, 2523.3, 2523.4, 2523.5, and 2523.6 pursuant to the authority vested in him by Insurance Code Subsection 10168.25(f) and Insurance Code Section 10168.92. The proposed regulations will implement, interpret and make specific the provisions of Insurance Code Section 10168.25.

HEARING DATE AND LOCATION

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to the proposed regulations, as follows:

**Date and time: April 24, 2012
10:00 a.m.**

**Location: Department of Insurance
Administrative Hearing Bureau
Hearing Room
45 Fremont Street, 22nd Floor
San Francisco CA 94105**

The hearing will continue on the date noted above until all testimony has been submitted or 5:00 p.m., whichever is earlier.

PRESENTATION OF WRITTEN AND/OR ORAL COMMENTS; CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. **The public comment period will end at 5:00 p.m. on April 24, 2012.** Please direct all written comments to the following contact person:

Nancy Hom, Senior Staff Counsel
California Department of Insurance
45 Fremont Street, 24th Floor
San Francisco, CA 94105
Telephone: (415) 538-4144

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Eugene Stuart, Staff Counsel
California Department of Insurance
45 Fremont Street, 24th Floor
San Francisco, CA 94105
Telephone: (415) 538-4147

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact person at

her address listed above, **no later than 5:00 p.m. on April 24, 2012**. Any written materials received after that time may not be considered.

COMMENTS TRANSMITTED BY
E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: Homn@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Nancy Hom and sent to the following facsimile number: (415) 904-5729. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person(s) for the hearing in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Title 10 of the California Code of Regulations, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address to inquire about the appropriate procedures:

California Department of Insurance
Office of the Public Advisor
45 Fremont Street, 24th Floor
San Francisco, CA 94105
(415) 538-4129

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor for further information.

INFORMATIVE DIGEST

Policy Statement Overview

Existing California Insurance Code Section 10168.25 is derived from and based upon an NAIC Model law, the Standard Nonforfeiture Law for Individual Deferred Annuities, NAIC Model # 805. The

purpose of Insurance Code Section 10168.25 is to regulate annuity nonforfeiture amounts. In general terms this means that any paid-up annuity, cash surrender, or death benefits available under an annuity contract subject to the statute must have a certain minimum value, which serves to protect consumers who purchase these products. The statute sets forth requirements for calculating minimum nonforfeiture amounts for annuities and for documenting the calculations for the Commissioner. The statute contains provisions applicable to annuities with equity indexed benefits as well as to annuities without equity indexed benefits. Subsection 10168.25(f) authorizes the Commissioner to adopt regulations to implement the statute, as does Insurance Code Section 10168.92.

After the NAIC adopted NAIC Model # 805, the NAIC adopted Annuity Nonforfeiture Model Regulation, NAIC Model # 806 (“NAIC Model # 806” or “the Model”). The purpose of NAIC Model # 806 is to implement, interpret and make specific the requirements of Section 4 of the Standard Nonforfeiture Law for Individual Deferred Annuities, NAIC Model # 805. NAIC Model # 806 establishes more specific rules for calculating minimum nonforfeiture amounts for annuities subject to NAIC Model # 805 and for providing documentation of the calculations to the Commissioner.

The Commissioner now proposes to adopt the provisions of NAIC Model # 806 (with some modifications) to implement, interpret, and make specific the provisions of Insurance Code Section 10168.25.

Existing law (Insurance Code Section 10168.25) sets forth general requirements but it does not address, and it was never intended to address, a number of issues that have arisen in the implementation of the statute. Insurance Code Section 10168.25 provides that the minimum values of any paid-up annuity, cash surrender, or death benefits available under an annuity contract subject to that section must be calculated based on the minimum nonforfeiture amounts as defined in Section 10168.25. The statute contains terms which are not fully defined and which could be interpreted in more than one way, for example terms such as “basis” and “equity indexed benefit.” The statute does not specify whether or not the method used to calculate the nonforfeiture rate at contract issue must be filed with the Commissioner, or whether or not this “initial method” can be changed for new contracts issued, or whether or not this “initial method” or the “redetermination method” as defined in the proposed regulations must be disclosed in the contract. In addition, if the nonforfeiture rate is to be redetermined, the statute does not specify whether changes to this “redetermination method” are allowed for new contracts issued.

Although the statute permits an additional reduction of up to 100 basis points in the calculation of the nonfor-

feiture interest rate for annuity contracts which provide substantive participation in an equity indexed benefit, it does not explain what constitutes “substantive participation.” The statute requires that the present value of the additional reduction shall not exceed the market value of the equity indexed benefit, and that the Commissioner may require a demonstration of this, but it does not provide any guidance on how to calculate the market value of the benefit or guidance as to whether or not the insurer should prepare a demonstration for the Commissioner. The statute also specifies that “lacking a demonstration that is acceptable” the Commissioner may disallow or limit the additional reduction, but it does not specify what would be considered a demonstration that is acceptable. It also does not detail whether or how insurers should certify that their calculations are in compliance with applicable law. The statute is silent on the extent to which insurers should maintain their work papers and it does not detail the Commissioner’s options if the Commissioner determines that an additional reduction of up to 100 basis points for equity-indexed benefits has been inappropriately taken. Finally, the statute provides no examples or illustrations of how its provisions should be implemented.

Because Insurance Code Section 10168.25 sets forth general requirements that can be interpreted in more than one way, insurers could calculate nonforfeiture interest rates in various ways and they might not always provide sufficient detail to explain their calculations. In addition, they have sometimes been uncertain how to provide a suitable demonstration to support the additional reduction permitted by Insurance Code Section 10168.25(e).

The broad objective of the proposed regulations is to implement, interpret, and make specific the requirements of Insurance Code Section 10168.25, so that these issues are addressed and the statute is interpreted and applied clearly and uniformly.

For the most part, the text of the proposed regulations follows the language of NAIC Model # 806, with only nonsubstantive changes in grammar, format, and numbering. In instances where substantive language has been added or deleted the changes were necessary in order to comply with or avoid conflict with California law, to avoid redundancy, and/or to clarify the meaning of the proposed regulations.

The Commissioner anticipates that the benefit of adopting the proposed regulations will be increased certainty, clarity, and uniformity in the implementation of Insurance Code Section 10168.25. Specifically, the Commissioner anticipates that adoption of the proposed regulations will promote uniformity with NAIC Model # 806 and with that of the law of any other state that adopts the provisions of the Model; foster a more uniform implementation of Section 10168.25; promote

fairness and increased clarity in that insurers making the calculations required by Insurance Code Section 10168.25 will know what is expected under the statute; promote more transparency in government in that insurers will have more specific information on what they need to provide to the Commissioner; and increase efficiency in the preparation of documents that must comply with Section 10168.25. In addition, NAIC Model # 806 and the Commissioner’s adoption of the proposed regulations reflect advances in regulatory law as developed by the NAIC. The proposed regulations also protect consumers because they help to ensure that annuities subject to Insurance Code Section 10168.25 comply with the nonforfeiture requirements of the statute, which is beneficial to the welfare of California residents.

The Legislature of the State of California has enacted two statutes, Insurance Code Subsection 10168.25(f) and Insurance Code Section 10168.95, which grant express rulemaking authority to the Commissioner to implement, interpret, and make specific Insurance Code Section 10168.25. Insurance Code Subsection 10168.25(f) grants the Commissioner rulemaking authority for Insurance Code Section 10168.25. Insurance Code Section 10168.92 grants the Commissioner general rulemaking authority for Article 3B of Division 2, Part 2, Chapter 1 of the Insurance Code, of which Section 10168.25 is a part.

Summary of Existing Law; Effect of Proposed Action

Section 2523. Purpose

Section 2523 provides that the purpose of Article 10.2, which sets forth the proposed regulations, is to implement, interpret, and make specific the provisions of Section 10168.25 of the Insurance Code. The effect of Section 2523 is to clarify the purpose of the proposed regulations and to identify the provisions of the Insurance Code being implemented, interpreted, and made more specific. Section 2523 along with the following proposed regulations address the specificity, clarity, and uniformity problems that arise in the implementation of Section 10168.25. The Commissioner anticipates that Section 2523 will be beneficial because it will clarify the purpose of the proposed regulations. There is no comparable provision in existing law.

Section 2523.1. Definitions

Existing law does not define a number of terms necessary to implement, interpret, and make specific Insurance Code Section 10168.25. The effect of Section 2523.1 will be to define the words “basis,” “equity-indexed benefits,” “index term,” “initial method,” “initial nonforfeiture rate,” “minimum nonforfeiture amount,” “nonforfeiture rate,” “redetermination method,” and “redetermination nonforfeiture rate” for pur-

poses of clarity, so that any reader of the proposed regulations may understand exactly what is meant by these terms. These terms are either used in Insurance Code Section 10168.25 or used in the proposed regulations in order to implement, interpret, and make the statute specific. The Commissioner anticipates that Section 2523.1 will be beneficial because it will clarify terms used in Insurance Code Section 10168.25 and/or the proposed regulations so that they can be understood and implemented in a uniform manner.

Section 2523.2. Initial Method

The effect of Section 2523.2 is to specify that the initial method shall be filed with the Commissioner in accordance with applicable filing and approval requirements. It also clarifies how often changes to the initial method may be made, to what contracts changes in the method would apply, and whether the initial method, the initial nonforfeiture rate, and the minimum nonforfeiture parameters must be disclosed in the insurance contract. These specifics are not set forth in Insurance Code Section 10168.25 or existing law. All of these specifics are reasonably necessary to clarify and implement Insurance Code Section 10168.25 in a uniform way. The effect of the proposed regulation will be greater clarity and uniformity in the implementation and interpretation of Insurance Code Section 10168.25, which is the anticipated benefit.

Section 2523.3. Redetermination Method

The effect of Section 2523.3 is to set forth disclosure requirements for use of the redetermination method and establish when changes in the redetermination method are allowed, subject to California filing and approval requirements. These requirements are not set forth in Insurance Code Section 10168.25 or existing law. The effect of the proposed regulation is to clarify and implement Insurance Code Section 10168.25 in a uniform way, which is the anticipated benefit.

Section 2523.4. Nonforfeiture Rate and Minimum Nonforfeiture Amount

The effect of Section 2523.4 is to specify requirements applicable to the nonforfeiture rate and the minimum nonforfeiture amount for an annuity contract (or certificate), depending on whether or not the product provides an equity-indexed benefit. Although existing law (Insurance Code Section 10168.25) applies to both types of contracts, the statute sets forth general requirements. It does not address a number of more specific issues that arise in determining the nonforfeiture rate and the minimum nonforfeiture amounts — those issues are addressed in the proposed regulation. The effect of Section 2523.4 is to clarify and implement the statute in a uniform way.

Section 2523.4(a) of this section clarifies that at any point in time a contract (or certificate) without an

equity-indexed benefit will have just one nonforfeiture rate and one nonforfeiture amount applicable to the entire contract that is determined in compliance with Insurance Code Section 10168.25. This is not expressly stated in Insurance Code Section 10168.25 or existing law.

Section 2523.4(b) clarifies that for an annuity contract (or certificate) in which equity-indexed benefits are available the annuity contract (or certificate) may have more than one nonforfeiture rate applicable to the contract (or certificate), subject to the requirements set forth in Subsections 2523.4(b)(1) through (6). Subsections 2523.4(b)(1), (2), and (3) expand on Insurance Code Section 10168.25 by setting forth specifics on how to calculate the nonforfeiture rate and the minimum nonforfeiture amount for contracts (or certificates) in which equity-indexed benefits are available. Existing law does not provide guidance on these points.

Subsection 2523.4(b)(4) specifies how to calculate the minimum nonforfeiture amount when the contract value is transferred in a contract which has equity-indexed benefits. Existing law does not address this subject. In addition, Subsection 2523.4(b)(4) refers the reader to examples in an appendix as a way of clarifying how Section 10168.25 and the proposed regulations should be implemented in particular scenarios. Existing law contains no comparable provision.

Subsection 2523.4(b)(5) specifies how to calculate the minimum nonforfeiture amount when there is a withdrawal from a benefit in which the amount of withdrawal exceeds the benefit's nonforfeiture amount. Existing law does not provide guidance on this subject.

Subsection 2523.4(b)(6) specifies how to allocate any contract charge or premium taxes paid by the company in calculating the minimum nonforfeiture amount. Existing law does not provide guidance on this subject.

Section 2523.5. Equity-Indexed Benefits

Existing law (Insurance Code Section 10168.25(e)) allows insurers to reduce the nonforfeiture rate by up to 100 basis points during the period or term that a contract provides substantive participation in an equity-indexed benefit to reflect the value of that benefit. However, Insurance Code Section 10168.25(e) provides only general guidance on a reduction in the nonforfeiture rate to reflect the value of the equity-indexed benefit.

Existing law (Insurance Code Section 10168.25(e)) also allows the Commissioner to require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit, and it authorizes the Commissioner to disallow or limit the reduction if the demonstration is not acceptable. However, Insurance Code section 10168.25(e) does not explain what would be considered an adequate demonstration. Instead, Insurance Code Subsection

10168.25(f) expressly provides that the Commissioner “may adopt regulations to implement the provisions of subdivision (e) and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit. . . .”

The effect of Section 2523.5 is to implement the provisions of Insurance Code Section 10168.25, and in particular those of Subsections 10168.25(e) and (f). Section 2523.5 specifies what insurers have to do to take the additional reduction in the nonforfeiture interest rate calculation for an equity-indexed benefit and demonstrate that the reduction is in compliance with Insurance Code Section 10168.25(e). Existing law does not provide guidance on this subject. The Commissioner anticipates that the proposed regulation will be beneficial because it will clarify and implement the statute in a uniform way.

More specifically, proposed Section 2523.5(a) provides that if a company chooses to take the additional reduction for an equity-indexed benefit as provided under Subsection 10168.25(e), the company shall prepare a demonstration showing compliance with the requirements in Subsection 10168.25(e). By requiring a demonstration to be prepared by all companies seeking the additional reduction, Subsection 2523.5(a) fairly and uniformly implements the requirements of Section 10168.25 (because the requirement applies to all companies seeking the reduction) and it provides the Commissioner with the information needed to evaluate the reductions. Existing law does not specify whether a demonstration is required. Subsection 2523.5 addresses that issue by creating a clear, uniform requirement.

The effect of Section 2523.5(b)(1) is to set forth the steps insurers must use to prepare the demonstration required by Subsection 2523.5(a). The steps are specific instructions to the companies as to how they must calculate the annualized option cost for the equity-indexed benefit. By setting forth the steps the companies must take, the proposed regulation creates certainty where there is now uncertainty. It can save companies time and effort because it tells them what they need to do to prepare the demonstration. Companies need not waste time preparing documentation that is unnecessary or unwanted by the Commissioner. There is no existing law on this subject.

Existing law does not say what constitutes “substantive participation” in an equity-indexed benefit under Insurance Code Section 10168.25(e). “Substantive participation” can be interpreted in more than one way. It is reasonably necessary to define what constitutes “substantive participation” in an equity-indexed benefit in order to determine whether a product qualifies for the reduction allowed by Subsection 10168.25(e). The effect of Subsection 2523.5(b)(2) is to address this issue

by stating how much the equity-indexed benefit must cost in order for it to meet the “substantive participation” requirement in the statute.

The effect of Subsection 2523.5(b)(3) is to require that companies prepare and file an actuarial certification as set forth in Section 2523.6 Appendix C with their demonstration, certifying that the reduction complies with the minimum requirements of California’s annuity nonforfeiture statutes and the proposed regulations. The effect of Subsection 2523.5(b)(4) is to require that companies prepare and file an actuarial certification as set forth in Section 2523.6 Appendix D with their annual statements, with regard to ongoing compliance with the proposed regulations. Existing law does not contain actuarial certification requirements that pertain to the implementation of Insurance Code Section 10168.25 in particular.

The actuarial certification requirements are beneficial because without them anyone could certify that a filing complies with applicable requirements, whether they are qualified to do so or not. The effect of the new subsections requiring certification by a member of the American Academy of Actuaries is to require that the filings be certified by someone who has had extensive actuarial education and who is subject to professional standards of practice. These requirements help to ensure that the calculations and data supplied to the regulator are thorough, accurate, and in compliance with applicable requirements. In addition, the actuarial certification requirements protect consumers by increasing the likelihood that the insurer is complying with statutory requirements, which exist in part to protect consumers. The actuarial certification requirements foster greater uniformity in regulatory standards.

A drafting note from NAIC Model # 806 has been incorporated into the proposed regulation as Subsection 2523.5(b)(5), with substitution of the word “shall” for “should” to require uniform compliance. By requiring companies to maintain demonstrations and work papers for submission to the Commissioner if requested, the effect of this subsection is to help ensure that companies have the documentation necessary for the Commissioner to evaluate the adequacy of a demonstration. Existing law does not have a comparable requirement. The anticipated benefit is to ensure that companies maintain the documents that the Commissioner would need to review in order to decide upon the adequacy of a demonstration.

Existing law gives the Commissioner the authority to disallow or limit the additional reduction permitted by Insurance Code Section 10168.25(e), but it does not specify exactly how this might occur. The effect of Subsection 2523.5(c) is to make the general language of the statute specific by stating that if the Commissioner determines that the additional reduction of up to 100 basis

points for equity-indexed benefits has been inappropriately taken, the Commissioner may require the recalculation of all values for all affected policyholders without all or part of the additional reduction. Subsection 2523.5(c) creates a standard by which both the companies' and the Commissioner's actions will be guided. The Commissioner anticipates that this will promote fairness, uniformity, and predictability in the review process.

Section 2523.6. Appendices A to D

Proposed Section 2523.6 is comprised of four appendices.

The effect of the first two appendices is to implement, interpret, and make specific Insurance Code Section 10168.25 by illustrating how the proposed regulations apply in particular situations. Appendix A illustrates indexing methods dependent upon changes in CMT levels by way of four examples that apply the proposed regulations to various scenarios. Appendix B shows a demonstration of how the minimum nonforfeiture amount is to be transferred in an equity-indexed annuity under proposed regulation Section 2523.4. Existing law does not contain any provisions that illustrate how Insurance Code Section 10168.25 should be implemented under the circumstances set forth in Appendices A and B. Appendix A and Appendix B clarify how the proposed regulations apply to common scenarios, which is the anticipated benefit.

The effect of Appendices C and D is to implement the provisions of Insurance Code Section 10168.25 by setting forth the texts of the actuarial certifications required by proposed regulation Subsections 2523.5(b)(3) and 2523.5(b)(4), respectively. Existing law does not set forth the content of any actuarial certifications evidencing compliance with the proposed regulations or Insurance Code Sections 10168 to 10168.10 in particular. The Commissioner anticipates a number of benefits from the adoption of Appendix C and Appendix D. Appendix C and Appendix D foster compliance with the statute and clarify what companies are required to prepare and file in order to comply with Subsections 2523.5(b)(3) and 2523.5(b)(4) of the proposed regulations. In addition, Appendix C and Appendix D make the proposed regulations clearer. Without these Appendices companies would not know what language the Commissioner expects to see in the actuarial certifications. They also make it easier for companies to comply with the actuarial certification requirement because they are fill-in-the-blank-type forms that have just four blanks (Appendix C) and five blanks (Appendix D). The information required to complete the blanks, such as the actuary's name, professional designation, and the name of the insurer submitting the form is readily available. In addition, the standardized nature of Ap-

pendices C and D fosters greater uniformity in regulatory standards.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

The proposed regulations implement, interpret, and make specific the provisions of Insurance Code Section 10168.25. There are currently no regulations that do so. The proposed regulations are not inconsistent or incompatible with any existing state regulations.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has made an initial determination that there is a very low probability that the adoption of the proposed regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are insurance companies.

The Commissioner expects that the proposed regulations will either create no cost impact or that they will

actually reduce insurers' costs overall. This is because it is the Commissioner's experience that in general insurers are already complying with the substance of the proposed regulations voluntarily. In addition, the proposed regulations may create efficiencies not possible under existing law, which is less well-defined. However, the proposed regulations do require insurers subject to Insurance Code Section 10168.25 to comply with actuarial requirements, document retention requirements, disclosure requirements applicable to contract and certificate forms, and actuarial certification requirements. A small number of insurers may incur increased administrative or actuarial costs as a result of complying with the requirements of the proposed regulations.

The Commissioner has considered proposed alternatives that would lessen any adverse economic impact on business and he invites you to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Commissioner is required to assess any impact the proposed regulations may have on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of California, the expansion of businesses currently doing business within the State of California, and the benefits of the proposed regulations to the health and welfare of California residents, worker safety, and the state's environment.

The Commissioner has determined that the proposed regulations will have a negligible or insignificant effect on possible changes in employment (the creation or elimination of jobs within the State of California), the creation of new businesses or the elimination of existing businesses within the State of California, and the expansion of businesses currently doing business within the State of California. The Commissioner has determined that the proposed regulations will be beneficial to the welfare of California residents, and that the proposed regulations will not impact the health of California residents, worker safety, or the state's environment.

In addition, the Commissioner is required to consider proposed alternatives to the proposed regulations. The

Commissioner has considered two such alternatives. Under Alternative #1 the Commissioner would not adopt the provisions of NAIC Model # 806 or any portion of the Model as regulations. Under Alternative #2 the Commissioner would adopt a modified version of NAIC Model # 806 that would set forth all provisions of the proposed regulations except for the actuarial certification requirements. The Commissioner has determined that neither of these two alternatives, which are discussed in the Economic Impact Assessment, would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy of Insurance Code Section 10168.25.

The full text of the Commissioner's assessment is set forth in the Economic Impact Assessment, a copy of which is included in the rulemaking record.

POTENTIAL COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR ENTITIES/BUSINESSES

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

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

IMPACT ON HOUSING COSTS

The proposed regulations will have no significant effect on housing costs.

ALTERNATIVES

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

IMPACT ON SMALL BUSINESS

The Commissioner has identified no reasonable alternatives to the presently proposed regulations, nor have any such alternatives otherwise been identified and brought to the attention of the Department, that would lessen any adverse impact on small businesses.

The Commissioner has determined that the proposed regulations will affect insurance companies. Insurance companies are not small businesses pursuant to California Government Code section 11342.610(b)(2).

TEXT OF REGULATIONS AND STATEMENTS OF REASONS

The Department of Insurance has prepared an Initial Statement of Reasons that sets forth the reasons for the proposed action. Upon request, the Initial Statement of Reasons will be made available for inspection and copying. Requests for the Initial Statement of Reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the Final Statement of Reasons will be made available for inspection and copying once it has been prepared. Requests for the Final Statement of Reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the express terms of the proposed regulations, the Statement of Reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available by appointment for inspection and copying at 45 Fremont Street, 24th Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the informative digest, which contains the general substance of the proposed regulations, as well as a copy of the proposed regulations, will automatically be sent to all persons on the Commissioner’s mailing list.

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department of Insurance’s website. To access them, go to <http://www.insurance.ca.gov>. Find at the right side of the page the heading “QUICK LINKS.” The third item in this column under this heading is “For Insurers”; on the drop-down menu for this item, select

“Legal Information.” When the “INSURERS: LEGAL INFORMATION” screen appears, click the third item in the list of bulleted items near the top of the page: “Proposed Regulations.” The “INSURERS: PROPOSED REGULATIONS” screen will be displayed. Select the only available link: “Search for Proposed Regulations.” Then, when the next screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter “REG-2007-00039” (the Department of Insurance’s regulation file number for these regulations) in the search field. Alternatively, search by using a keyword (“nonforfeiture,” for example, or “annuity”). Then, click on the “Submit” button to display links to the various filing documents.

To browse, click on the “Currently Proposed Regulations” button near the top of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the “Annuity Nonforfeiture” link, and click it. Links to the documents associated with these regulations will then be displayed.

MODIFIED LANGUAGE

If the regulations adopted by the Department of Insurance differ from those that have originally been made available but are sufficiently related to the action proposed, the full text of the regulations will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315 and 316.5, of the Fish and Game Code and to implement, interpret or make specific 200, 202, 205, 206, 215 and 316.5 of said Code, proposes to amend Section 7.50, Title 14, California Code of Regulations, relating to Central Valley salmon sport fishing.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Pacific Fishery Management Council (PFMC) will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at their March 6, 2012 meeting and develop the final PFMC regulatory

recommendations to the National Marine Fisheries Service at their April 6, 2012 meeting.

Although there are no PFMC regulatory options to review at this time, there exists a possibility of ocean water closures off California. These ocean closures may result in PFMC recommendations for Central Valley salmon fishery closures.

The Department is proposing a range of varied salmon season dates in the American, Feather, Mokelumne, and Sacramento rivers to encompass possible PFMC 2012 recommendations for Central Valley salmon stocks in mid-April. The scope of this option is intentionally broad to increase flexibility for development of the final Central Valley salmon seasons.

Further Commission actions affecting the Central Valley salmon sport fishery may be developed after the annual PFMC reports, *Review of 2011 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis for 2012 Ocean Salmon Fisheries*, are available in late February 2012.

Present Regulations

The current regulations allow for salmon fishing in the American, Feather and Sacramento rivers to achieve the 2011 PFMC harvest target of 61,400 adult Sacramento River Fall Chinook, but the Mokelumne River is closed to salmon fishing.

Proposed Regulations

A range of varied season dates are proposed to continue salmon fishing in the American, Feather and Sacramento rivers and expand angler access in the Feather and Mokelumne rivers. The following changes to current regulations are proposed to encompass the final PFMC recommendations and align annual season closing dates to protect listed species and salmon spawning grounds.

For all areas, the current language to describe no salmon fishing in all areas is “Closed to salmon fishing. No take or possession of salmon”. The Department proposes to use “Closed to the take of salmon” instead to reduce public confusion and assist enforcement activities.

American River, subsection 7.50(b)(5)

- 1) Subsection (A) between Nimbus Dam and the Hazel Avenue bridge and subsection (D) between the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park and the Jibboom Street bridge.
 - a. Proposed range of varied open dates between July 16 and December 31 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.

- 2) Subsection (B) between Hazel Avenue bridge and the USGS gauging station cable crossing near Nimbus Hatchery.
 - a. Proposed range of varied open dates between July 16 and August 15 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- 3) Subsection (C) between the USGS gauging station cable crossing near Nimbus Hatchery and the SMUD power line crossing the southwest boundary of Ancil Hoffman Park.
 - a. Proposed range of varied open dates between July 16 and October 31 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- 4) Subsection (E) between the Jibboom Street bridge and the mouth.
 - a. Proposed range of varied open dates between July 16 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - b. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.

Feather River, subsection 7.50(b)(68)

- 1) Subsection (C) between the Highway 70 bridge and the unimproved boat ramp above the Thermalito Afterbay Outfall.
 - a. The lower boundary is proposed to move upstream to open up salmon fishing access to the Thermalito Afterbay Outfall area in new subsection (D).
 - b. Proposed to remain closed to salmon fishing all year with existing trout and steelhead limits.
- 2) New subsection (D) between the unimproved boat ramp above the Thermalito Afterbay Outfall and the Live Oak boat ramp.
 - a. Proposed to remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead limits.
 - b. Proposed range of varied open dates between July 16 and October 15 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - c. Proposed to remain closed to salmon fishing from October 16 to December 31 with existing trout and steelhead bag limits.
- 3) Subsection (E) between the Live Oak boat ramp and the mouth.

- a. Proposed to remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead limits
- b. Proposed range of varied open dates between July 16 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- c. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.
- c. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.
- d. For purposes of this regulation, the lower boundary is proposed to be defined as Mokelumne River and its tributary sloughs east of Highway 160 and north of Highway 12.

Sacramento River below Keswick Dam, subsection 7.50(b)(156.5)

Mokelumne River, subsection 7.50(b)(124)

- 1) All subsections will be revised to clarify the regulations and organize the subsections from upper reach to lower reach to align with the rest of Section 7.50.
- 2) Subsection (A) between Camanche Dam and Highway 99 bridge.
 - a. Proposed to remain closed to salmon fishing from January 1 to March 31 and from the fourth Saturday in May to July 15 with existing trout and steelhead limits.
 - b. Proposed range of varied open dates between July 16 and October 15 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- 3) Subsection (B) between Highway 99 bridge and the Woodbridge Irrigation District Dam including Lodi Lake.
 - a. Proposed to remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead bag limits.
 - b. Proposed range of varied open dates between July 16 and December 31 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- 4) Subsection (C) between the Woodbridge Irrigation District Dam and the Lower Sacramento Road bridge.
 - a. Proposed to remain closed to all fishing all year.
 - b. The lower boundary’s “Woodbridge vehicle bridge” is defined as “the Lower Sacramento Road bridge”.
- 5) Subsection (D) between the Lower Sacramento Road bridge and the mouth.
 - a. Proposed to remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead bag limits.
 - b. Proposed range of varied open dates between July 16 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.

- 1) Subsection (C) between Deschutes Road bridge and the Red Bluff Diversion Dam.
 - a. Proposed range of varied open dates between August 1 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - b. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.
- 2) Subsection (E) between the Red Bluff Diversion Dam and the Highway 113 bridge.
 - a. Proposed range of varied open dates between July 16 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - b. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.
- 3) Subsection (F) between the Highway 113 bridge and the Carquinez Bridge.
 - a. Proposed range of varied open dates between July 16 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - b. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.
 - c. This area’s description includes Suisun Bay, Grizzly Bay and all tributary sloughs. The proposed regulation will specify this area includes Suisun Bay, Grizzly Bay and all tributary sloughs west of Highway 160.

Additional minor changes are proposed to improve clarity, reduce public confusion, and simplify Title 14 structure.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of the Central Valley salmon resources, and promotion of businesses that rely on Central Valley salmon sport fishing.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the

promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate sport fishing regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mission Inn Hotel, 3649 Mission Inn Avenue, Riverside, California, on Wednesday, March 7, 2012 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Red Lion Hotel, 1929 4th Street, Eureka, California, on Wednesday, April 11, 2012, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 6, 2012 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 10, 2012. All comments must be received no later than April 11, 2012, at the hearing in Eureka, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Mr. Stafford Lehr, Chief, Fisheries Branch, telephone at (916) 327-8840, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the

control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulations range from no salmon fishing in 2012 to a normal Central Valley salmon season; therefore, the potential impacts range from 0 to 166 jobs. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of

causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages consumption of a nutritious food.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

- (c) Cost Impacts on a Representative Private Person or Business:

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

- (h) Effect on Housing Costs:

None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

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

ly effective in implementing the statutory policy or other provision of law.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315 and 316.5, of the Fish and Game Code and to implement, interpret or make specific 200, 202, 205, 206, 215 and 316.5 of said Code, proposes to amend Section 7.50, Title 14, California Code of Regulations, relating to Klamath-Trinity Rivers salmon sport fishing.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, Federal, and Tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and Tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

Klamath River Fall-Run Chinook

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between Tribal and non-Tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2012 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath basin and equitably distribute harvest while operating within annual allocations.

Klamath River Spring–Run Chinook

The Klamath River System also supports Klamath River spring–run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in–river recreational fishery is managed by general basin seasons, daily bag limit and possession limit regulations.

KRFC Allocation Management

The 2011 allocation for the Klamath River System recreational harvest was 7,900 adult KRFC. Preseason stock projections of 2012 adult KRFC abundance will not be available from the PFMC until March 2012. The 2012 basin allocation will be recommended by the PFMC in April 2012 and presented to the Commission for adoption prior to its April 2012 meeting.

For public notice requirements, the Department recommends the Commission consider an allocation range of 0–40,000 adult KRFC in the Klamath River basin for the river recreational fishery.

Current Recreational Fishery Management

The KRFC in–river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time sub–quota management. KRSC in–river recreational harvest is managed by general season, daily bag limit and possession limit regulations.

The daily bag and possession limits apply to both stocks within the same sub–area and time period.

Proposed Changes

The Department is proposing the following changes to current regulations:

No changes are proposed for the general (KRSC) opening and closing season dates.

KRFC Season, Bag Limit, and Possession Limit

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2012 basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the sub quota has been met.

The proposed open seasons and range of bag limits for KRFC salmon stocks are as follows:

1. Klamath River — August 15 to December 31
2. Trinity River — September 1 to December 31
3. Bag Limit — [0–4] Chinook salmon — only [0–3] fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length.

The possession limit is proposed as a range of [0–9] Chinook salmon of which [0–6] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of

Klamath River basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River basin.

The Commission does not anticipate non–monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate sport fishing regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mission Inn Hotel, 3649 Mission Inn Avenue, Riverside, California, on Wednesday, March 7, 2012 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Red Lion Hotel, 1929 4th Street, Eureka, California, on Wednesday, April 11, 2012, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 6, 2012 at the address given below, or by fax at (916) 653–5040, or by e–mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e–mailed to the Commission office, must be received before 5:00 p.m. on April 10, 2012. All comments must be received no later than April 11, 2012, at the hearing in Eureka, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Mr. Curtis Milliron, Department of Fish and Game, Northern Region, telephone (530) 225–2280, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:
The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to have an unknown impact on the net revenues to businesses servicing sport fishermen. This is not likely to affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of

California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulations range from no salmon fishing on adult Chinook salmon (>22 inches) in 2012 to a normal Klamath River Basin salmon season; therefore, the potential impacts range from 0 to 47 jobs. However, due to the fact that sport fishing for Chinook salmon will be allowed for grilse fall Chinook salmon, impacts to businesses will be less severe than under a complete closure of fishing. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages consumption of a nutritious food.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

- (c) Cost Impacts on a Representative Private Person or Business:
The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:
None.
- (e) Nondiscretionary Costs/Savings to Local Agencies:
None.
- (f) Programs Mandated on Local Agencies or School Districts:
None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:
None.

(h) Effect on Housing Costs:
None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

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

**TITLE 24. BUILDING STANDARDS
COMMISSION**

NOTICE OF PROPOSED ACTION

**REVISIONS TO THE
CALIFORNIA BUILDING ENERGY
EFFICIENCY STANDARDS
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 1 and PART 6
(CALIFORNIA ENERGY CODE)**

**2013 BUILDING ENERGY
EFFICIENCY STANDARDS
California Energy Commission
DOCKET NO. 12-BSTD-1
FEBRUARY 7, 2012**

Notice is hereby given that the California Energy Commission proposes to adopt changes to the Building Energy Efficiency Standards contained in the California Code of Regulations (CCR), Title 24, Part 6 (also known as the California Energy Code) and associated administrative regulations in Part 1. The proposed amended standards are called the “2013 Building Energy Efficiency Standards” and will go into effect in 2014.

The Energy Commission has prepared this Notice of Proposed Action (NOPA) and an Initial Statement of Reasons (ISOR) regarding the need for the proposed re-

visions. The Energy Commission has also published the Express Terms (45-Day Language) of the proposed amendment language. These documents can be obtained from the contact persons designated below or from the Energy Commission website at:

www.energy.ca.gov/title24/2013standards/rulemaking/.

PUBLIC COMMENT PERIOD AND HEARINGS

The Energy Commission’s Energy Efficiency Commissioner will hold public hearings to receive public comments on the proposed action. At these hearings, any person may present statements or arguments relevant to the proposed regulatory action summarized below. The proposed language (45-Day Language Express Terms) is posted on the Energy Commission’s website at:

www.energy.ca.gov/title24/2013standards/rulemaking/.

The 45-Day Language Express Terms are also available from the Energy Commission’s High Performance Buildings and Standards Development Office (contact persons are listed later in this NOPA). The Commissioner Hearings to discuss the 45-Day Language are scheduled as follows:

MONDAY, MARCH 12, 2012
TUESDAY, MARCH 13, 2012 (if needed)
THURSDAY, MARCH 15, 2012 (If needed)
9:00 a.m.
CALIFORNIA ENERGY COMMISSION
Hearing Room A
1516 Ninth Street
Sacramento, California
(Wheelchair Accessible)

The Commissioner Hearing will definitely be held on the first date listed. The Commissioner Hearings may continue on the second and third dates listed, as necessary.

Audio for the Energy Efficiency Commissioner Hearings will be broadcast over the Internet. For details, please go to: www.energy.ca.gov/webcast.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916) 654-5146 at least 5 days in advance.

A hearing before the full Energy Commission, for possible final adoption of the 45-Day Language Express Terms will be held on the date below; however, if the Energy Commission decides to make substantive changes to the Express Terms through 15-Day Language, the public hearing may be continued to a later noticed date.

**PROPOSED ADOPTION DATE — FULL
ENERGY COMMISSION HEARING**

WEDNESDAY, APRIL 11, 2012

10 a.m.

CALIFORNIA ENERGY COMMISSION

Hearing Room A

1516 Ninth Street

Sacramento, California

(Wheelchair Accessible)

Audio for the April 11, 2012 ENERGY COMMISSION HEARING will be broadcast over the Internet. For details, please go to: www.energy.ca.gov/webcast.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916) 654-5146 at least 5 days in advance.

If the Energy Commission decides to propose 15-Day Language modifications to the Express Terms, a separate notice of the adoption hearing for the 15-Day Language will be provided.

The public comment period for this NOPA will be from February 24, 2012, through 10:00 a.m. on April 11, 2012. Any interested person may submit written comments on the proposed amendments. Regarding the Energy Efficiency Commissioner and Adoption Hearings, the Energy Commission appreciates receiving written comments at the earliest possible date: for the March 12, 2012 hearing, please provide written comments by March 6, 2012; for the April 11, 2012 Adoption Hearing, please provide written comments by April 4, 2012. However, written comments will still be accepted at the adoption hearing if they are received by 10:00 a.m. on April 11, 2012. Written comments must be emailed to Docket@energy.ca.gov or mailed or delivered to the following address (emailing is preferred):

CALIFORNIA ENERGY COMMISSION

Attention: Docket No. 12-BSTD-1

Dockets Office

1516 Ninth Street, MS-4

Sacramento, CA 95814

All written comments must contain the official number of the proceeding “Docket No. 12-BSTD-1,” prominently displayed on the first page. When comments are emailed on behalf of an organization, the comments should be a scanned copy of the original on the organization’s letterhead and include a signature of an authorized representative.

Written Comments may also be filed electronically by emailing ryasny@energy.ca.gov or FAXing them to (916) 654-4304, as long as they are received no later than April 11, 2012 at 10:00 a.m.

Oral comments may be made at the Energy Efficiency Commissioner hearing(s) (March 12, and

March 13 and 15 if necessary). In addition, oral comments may be made at the April 11 Full Commission Adoption Hearing. **The Commission requests that oral comments be limited to summaries of previously-submitted written comments.**

**POTENTIAL POST-HEARING MODIFICATIONS
TO THE TEXT OF THE REGULATIONS**

Interested persons should be aware that any of the provisions of the amendments under consideration by the Energy Commission could be substantively changed as a result of public comment, staff recommendations, or discussions at the Energy Efficiency Commissioner or Full Commission Hearings. If the Energy Commission makes substantive changes to the 45-Day Language Express Terms that a reasonable person could have anticipated could be made as within the scope of this NOPA, it will make the full text of the modified amendments available to the public at least 15 days before adoption, as required by Government Code 11346.8. (Changes outside the scope of the NOPA must be made in new 45-day language.)

To be notified of any modifications, you must submit written or oral comments in accordance with the instructions above, or request that you be notified of any modifications, by submitting a request, no later than April 9th, to:

ryasny@energy.ca.gov.

AUTHORITY AND REFERENCE

The Energy Commission proposes to adopt the Express Terms under the authority granted by Public Resources Code Sections 25213, 25402(a)-(b), 25402.1, 25402.4, 25402.5, 25402.8 and 25910.

INFORMATIVE DIGEST

A. Summary of Existing Laws and Regulations; Policy Overview

Public Resources Code Sections 25402 and 25402.1 were enacted in the 1970s as part of the enabling legislation establishing the Energy Commission and its basic mandates. These sections require the Energy Commission to adopt, implement, and periodically update energy efficiency standards for both residential and nonresidential buildings. In addition, Public Resources Code Section 25910 directs the Commission to adopt standards for the minimum amount of additional insulation installed in existing buildings. Senate Bill (SB) 639 (Statutes of 1993) added Section 25402.5, which expressly directs the Commission to consider both new and replacement, and both interior and exterior, lighting

devices when adopting building standards. SB 5X (Statutes of 2001) added subsection (c) to Section 25402.5 to clarify and expand the Commission's authority to adopt standards for outdoor lighting.

The Global Warming Solutions Act (Assembly Bill (AB) 32, Núñez, Chapter 488, Statutes of 2006) has been the foundation of California's efforts over the past five years to reduce greenhouse gas emissions (GHG); AB 32 requires that by 2020 the state reduce its GHG emissions to the level that existed in 1990. *Improving the energy efficiency of existing residential and commercial buildings is the single most important activity to reduce greenhouse gas emissions that result from electricity and natural gas use.* The Energy Commission's 2007 Integrated Energy Policy Report (IEPR), which is California's official statement of the state's energy policy, concludes that climate change is the single most important environmental and economic challenge of the century, that greenhouse gas emissions are the largest contributors to climate change, and that California's ability to slow the rate of greenhouse gas emissions will depend first on energy efficiency.

Similarly, the California Long-Term Energy Efficiency Strategic Plan (2008) adopted by the California Public Utilities Commission (CPUC) identifies the importance of the Energy Commission's building energy efficiency standards in reaching the State's goal of having new homes be "zero net energy" by 2020 and of having commercial buildings be "zero net energy" buildings by 2030. ("Zero net energy" means that the buildings would be so energy efficient, and would where necessary have on-site energy production facilities (such as solar photovoltaic electricity-generating panels on rooftops), that the buildings would produce as least as much energy as they consumed from electricity and natural gas utility service.) The CPUC's Strategic Plan also discusses the Energy Commission's development of voluntary "Reach Standards" as a critical component of the Building Energy Efficiency Standards. In each update of the mandatory standards, the Reach Standards establish a "market pull strategy" to encourage the building industry to anticipate that additional standards improvements will be coming in the following cycle, and for a substantial portion of newly constructed buildings to build to meet higher levels of efficiency than just what the mandatory standards require. This is accomplished by the Energy Commission's collaboration with the CPUC and with utility programs that provide incentives to builders who meet the Reach Standards. The voluntary Reach Standards appear in the State's California Green Building Standards Code (California Code of Regulations, Title 24, Part 11) and in other agencies' regulations and programs.

Governor Brown's Clean Energy Jobs Plan (2010) combines existing state energy policy with economic

recovery and growth goals by focusing on developing renewable energy and energy efficiency technologies and creating more than half a million green jobs. In the area of building efficiency, the Governor's Plan calls for:

- Adopting stronger appliance standards for lighting, consumer electronics, and other products;
- Creating new efficiency standards for new buildings;
- Increasing public education and enforcement efforts so that the gains promised by California's efficiency standards are realized;
- Adopting a plan for achieving "zero-net-energy" homes and businesses;
- Making existing buildings more efficient, especially the half of California homes that were built before the advent of modern building standards; and
- Providing information to commercial investors and homebuyers by disclosing building energy consumption prior to building sale.

The Energy Commission's draft Integrated Energy Policy Report (2011) includes an energy efficiency chapter that emphasizes the zero net energy policy goals for the state's residential and nonresidential buildings. It articulates how the Building Energy Efficiency Standards, including Reach Standards, will be updated periodically to attain the aggressive levels of energy efficiency required to make zero net energy buildings cost-effective for consumers.

The 45-Day Language Express Terms described in this NOPA are designed to comply with and meet all of these state laws and policies. To summarize:

As required by law, the proposed standards are cost-effective to consumers (that is, the energy bill savings over the life of the building will be much greater than any increased construction costs that will result from the standards).

The proposed standards take a crucial step in meeting the 2020 and 2030 net energy goals; if adopted, they will advance new buildings by about 30% of the way between current practice and zero net energy. A key element is the requirement that most new buildings be "solar ready" so that consumers choosing to do so will be able to install solar equipment as cheaply and easily as possible. Moreover, the standards offer solar as builder-chosen alternatives for many building types.

By saving large amounts of energy, the standards will make a major contribution in meeting the state's goals for reductions in greenhouse gas emissions.

By making buildings cheaper to own and operate, the standards will encourage investment in new construction and will also make more capital available for other

investments, thereby stimulating economic growth and the creation of new jobs.

B. Summary of Existing Regulations

The Building Energy Efficiency Standards were first adopted in 1976 and have been updated periodically since then as directed by statute. In 1975 the Department of Housing and Community Development had adopted rudimentary energy conservation standards, under their State Housing Law authority, that were a precursor to the first generation of the Building Energy Efficiency Standards. However, the Warren–Alquist Act was passed that year with explicit direction to the Commission to adopt and implement the Building Energy Efficiency Standards (Standards). The Commission’s statute created separate authority and specific direction to the Commission regarding what the Standards are to address, what criteria are to be met in developing standards, and what implementation tools, aids, and technical assistance are to be provided.

The Standards contain energy efficiency (and indoor air quality requirements) for newly constructed buildings, additions to existing buildings, alterations to existing buildings, and, in the case of nonresidential buildings, repairs to existing buildings. Public Resources Code sections 25402(a)–(b) and 25402.1 emphasize the importance of building design and construction flexibility by requiring the Commission to establish performance standards, in the form of an “energy budget” in terms of the energy consumption per square foot of floor space. The Standards have done so since 1976 and the 45–Day Language Express Terms described in this NOPA will do the same if adopted.

Public Resources Code section 25402.1 also requires the Energy Commission to support the performance standards with compliance tools for builders and building designers. Thus in its Alternative Calculation Method (ACM) Approval Manuals, which are adopted by regulation in support of the Standards, and which are described in more detail below, the Commission establishes requirements for input, output and calculational uniformity in computer programs that are used to demonstrate compliance with the Standards. The ACM Manuals thereby allow private firms to develop compliance software for approval by the Commission, which further encourages flexibility and innovation.

The Commission also adopts Reference Appendices that contain data and other information that help builders comply with the Standards.

The Standards are divided into three basic sets. First, there is a basic set of mandatory requirements that apply to all buildings. Second, there is a set of performance standards — the energy budgets — that vary by climate zone (of which there are 16 in California) and building type; thus the Standards are tailored to local conditions.

Finally, the third set constitutes an alternative to the performance standards, which is a set of prescriptive “packages” that are basically a “checklist” compliance approach. A summary outline of the standards is as follows:

- Mandatory requirements that apply to all building types are in Sections 110.0–110.9.
- The requirements for nonresidential buildings, high-rise residential buildings, and hotels/motels are in Sections 120.0 to 120.9 and 130.0 to 141.0. Specialized mandatory requirements for such buildings are in Sections 120.0 to 120.9; the performance compliance approach is explained in Section 140.1; nonresidential prescriptive packages are in Sections 140.2 to 140.9; and requirements for additions, alterations, and repairs to existing nonresidential buildings are in Section 141.
- The requirements for low-rise residential buildings are in Sections 150.0 to 150.2. Specialized mandatory requirements for these buildings are in Section 150.0; the performance compliance approach is explained in Section 150.1; prescriptive packages are in Section 150.1; and requirements for additions and alterations to existing buildings are in Section 150.2.
- The administrative regulations for the Standards are in Part I, Chapter 10.
- The voluntary Reach Standards are in Part 11, the Green Building Standards.

C. Summary of the Proposed Regulations

Overview

The 2013 Standards focus on several key areas to (1) improve the energy efficiency of newly constructed buildings (and additions and alterations to existing buildings), (2) help reduce electricity demand reductions during critical peak periods, and (3) enable simple and efficient future solar system installations.

The most significant efficiency improvements to the residential Standards are proposed for windows, envelope (wall, ceiling, and floor) insulation, and testing of heating, ventilating, and air-conditioning (HVAC, basically furnaces, air conditioners, and ducts) systems; for the first time, HVAC duct sealing will be a mandatory requirement for all residential building projects.

New efficiency requirements for “process loads” such as commercial refrigeration, data centers, kitchen exhaust systems, and compressed air systems are included in the nonresidential Standards, as are expanded criteria for acceptance testing of mechanical and lighting systems. Finally, there are new requirements for compliance data to be collected in a Commission–managed repository.

The proposed standards will help residential and small commercial buildings to respond to critical electricity peak demand events by reducing air conditioning loads. This is accomplished through requirements for capabilities that enable utilities to communicate remotely with building controls, and for those controls to respond by reducing air conditioning use.

Facilitating future solar electric and solar thermal system installations is another new element of the 2013 Standards. This is accomplished by ensuring that necessary space and equipment connections will be available.

The 2013 Standards also include updates to the voluntary “Reach” standards in Part 11. In order for buildings to be able to advertise that they meet those standards, a set of prerequisites has been established. The residential Reach Standards have also been updated to require additional energy efficiency or on-site renewable electricity generation to meet a specific threshold of expected electricity use. Both the residential and nonresidential Reach Standards include requirements for building additions and alterations as well as new construction.

Specific Benefits anticipated from the Proposed Standards

The proposed Standards are expected to save California residents and businesses hundreds of millions of dollars in energy costs over the next decade. These energy cost savings also benefit the environment, due to the reductions in natural resource utilization and the greenhouse gas emissions that energy production, distribution and consumption generate. The nonmonetary benefits of the proposed Standards include more reliable outdoor air ventilation and better thermal comfort for the health and welfare of building occupants in homes and buildings, by increasing and improving the field verification requirements of energy-related equipment and controls. The proposed Standards also provide a nonmonetary benefit of increased transparency in government by improving the clarity and increasing the simplicity of the energy efficiency requirements. There is no effect on worker safety, the prevention of discrimination, or the promotion of fairness or social equity anticipated from the proposed Standards.

A summary of the specific changes to current Building Energy Efficiency Standards that are proposed under this rulemaking are as follows. *These proposed changes are discussed in more detail in the Initial Statement of Reasons that is being published simultaneously with this NOPA.*

1. PART 6

In addition to the substantive changes described below, all numbering of Part 6 sections has been modified to accommodate additions to the Standards language.

For example, Section 100 has been changed to Section 100.0 and Section 102 has been changed to Section 100.2. Due to this renumbering, it is no longer necessary to reserve code sections for future use, since the new numbering scheme accommodates a vast number of section and subsection divisions.

a. STANDARDS CHANGES FOR ALL BUILDING TYPES

Scope (§100.0): Added requirements for covered processes. Added an exception for the Mixed Occupancy lighting requirements. Clarified the certification requirements for manufactured devices.

Application of Standards (§100.0, Table 100.0–A): Edited table to be consistent with other proposed.

Definitions (§101): Added new definitions, deleted obsolete definitions, and modified existing definitions to reflect the updated Standards language.

Mandatory Requirements for Appliances (§110.1): Edited for clarity.

Mandatory Requirements for Space Conditioning Equipment (§110.2): Updated the requirements for chillers to match federal appliance efficiency standards (ASHRAE 90.1). Added requirements for programmable setback thermostats to be upgradeable to communicating setback thermostats. Added requirements for evaporative or open cooling towers to include water saving features.

Mandatory Requirements for Service Water Heating Systems (§110.3): Removed an exception for hot water distribution system controls on water heating systems serving single dwelling units. Added requirements for each shower head to be controlled by a dedicated mixing valve and to set minimum limits on shower head spacing.

Mandatory Requirements for Fenestration Products (§110.6): Added an exception that states that neither fenestration products (basically, windows and skylights) nor exterior doors are subject to air leakage requirements if they are field fabricated (constructed at the building site rather than in a manufacturer’s factory). Reduced the building floor area threshold for when National Fenestration Rating Council (NFRC) ratings are required for field fabricated fenestration products. Added a provision to the existing requirement that fenestration products be rated according to NFRC procedures; the new provision requires that visual transmittance be included among the product characteristics that must be tested and labeled.

Mandatory Requirements to Limit Air Leakage (§110.7): Added air barrier design and construction requirements and included specifications for materials deemed to comply as air barriers.

Mandatory Requirements for Insulation, Roofing Products and Radiant Barriers (§110.8): Edited for

clarity. Added a prohibition of insulation placement on top of suspended ceilings. Added an emittance requirement for radiant barriers.

Mandatory Requirements for Lighting Control Devices and Systems, Ballasts and Luminaires (§110.9): Edited for clarity and to reflect changes to the prescriptive lighting requirements. Updated to be consistent with recent changes to the Energy Commission’s Title 20 Appliance Efficiency Regulations. (Self contained lighting controls are now regulated by Title 20 and lighting controls systems continue to be regulated by this section.) Added lighting control acceptance requirements. Moved requirements for supplementary overcurrent protection panels from the prescriptive package section to this mandatory section.

Mandatory Requirements for Solar Ready Buildings (§110.10): Added requirements for building designs to provide for the future installation of solar electric or solar thermal systems.

b. STANDARDS CHANGES FOR NONRESIDENTIAL, HIGH-RISE RESIDENTIAL, AND HOTEL/MOTEL BUILDINGS

MANDATORY REQUIREMENTS

General (§120.0): Modified Subchapter and Section headings to include all mandatory requirements for nonresidential buildings other than the lighting requirements that remain in Section 130.0.

Ventilation (§120.1): Edited for clarity. Added ventilation control by an occupant sensor ventilation control device (a device that senses human occupancy based on motion detection technology, then controls ventilation air flow rates accordingly) as an acceptable approach to meet the outdoor air control requirements. Added a requirement for ventilation air to be measured and controlled within 10% of the required air flow rates.

Controls for Space Conditioning Systems (§120.2): Edited for clarity. Added requirements for multipurpose rooms, classrooms, and conference rooms: they must (1) have shutoff and reset controls; (2) be equipped with occupant sensors; and (3) provide for automatically setup cooling temperature setpoints, setback heating temperature setpoints, and reduced ventilation rates during unoccupied periods. Added a requirement for air-cooled unitary direct-expansion equipment to include an economizer fault detection and diagnostics system.

Pipe Insulation (§120.3): Edited for clarity. Increased required levels of pipe insulation; summarized in Table 120.3–A.

Mechanical System Acceptance (§120.5): Edited for clarity. Added system acceptance requirements for supply air temperature reset controls, condenser water

temperature reset controls, and Energy Management Control Systems.

Covered Processes (§120.6): Renamed Section to include all Covered Processes. Added subsections for Commercial Refrigeration, Enclosed Parking Garages, Process Boilers, and Compressed Air Systems.

Refrigerated Warehouses (§120.6(a)): Edited for clarity. Added an exception to exclude quick chilling and quick freezing compressors and condensers from meeting the requirements of this section. Increased the refrigerated warehouse insulation requirements. Modified the exception for variable speed evaporators to accommodate long term storage facilities that are designed for constant airflow. Removed the requirement for condensers utilizing ammonia to be evaporatively cooled. Added condensing temperature reset control requirements. Added fan-powered condenser efficiency requirements. Added requirements for infiltration barriers. Added system acceptance requirements for electric resistance underslab heating systems, evaporators, evaporative condensers, air-cooled condensers, and variable speed compressors.

Commercial Refrigeration (§120.6(b)): Added entire subsection, with new requirements for condenser speed controls, fan-powered condenser efficiency, compressor system controls, display case lighting controls, and refrigeration heat recovery.

Enclosed Parking Garages (§120.6(c)): Added entire subsection, with new requirements for mechanical ventilation systems to modulate ventilation rates in response to the automatic detection of contaminant levels.

Process Boilers (§120.6(d)): Added entire subsection, with new requirements for boilers to be equipped with a combustion air positive shut-off device, for fan motors to be variable speed or to limit demand based on airflow rate, and to limit the amount of excess oxygen used in the combustion process.

Compressed Air Systems (§120.6(e)): Added entire subsection, with new requirements for trim compressors and for compressed air storage, compressed air system controls, and acceptance testing of compressed air systems.

Insulation (§120.7): Added entire section, with new minimum requirements for roof, wall, and floor insulation.

Building Commissioning (§120.8): Added entire section, with new requirements for design-phase commissioning. Relocated some current building commissioning requirements, which are in Title 24, Part 11 and which pertain to energy systems that are covered in Part 6, to this section.

Commercial Boilers (§120.9): Added entire section, with new requirements for boilers to be equipped with a combustion air positive shut-off device, for fan motors

to be variable speed or limit demand based on airflow rate, and to limit the amount of excess oxygen used in the combustion process.

Lighting Controls and Building Power Subchapter (§§130.0 to 130.5): Added Building Power into the scope of Subchapter 4.

Lighting Controls and Equipment (§130.0): Edited for clarity and to improve organization. Added fire station dwelling accommodations as a residential building space type that must meet the residential lighting requirements. Simplified the criteria used to determine luminaire power and added a new scheme to classify luminaires. Added a requirement for installation inspections of track lighting integral current limiters (current limiters that are built directly into the track lighting fixture). Modified the test requirement for light-emitting diode (LED) lamps, such that LEDs must now adhere to a nationally recognized test standard.

Indoor Lighting Controls (§130.1): Edited for clarity, removed redundant code language, and improved organization. Reduced the amount of lighting allowed to be installed in a building area without controls. Reduced the general lighting threshold (measured in watts per square foot), which means that the multi-level lighting control requirements of this section now apply to more spaces in more buildings. Modified the requirements for multi-level control steps and light uniformity to be appropriate to specific lighting technologies. Added a requirement for multi-level lighting controls to meet at least one of five listed control types. Added a requirement for daylighting controls in parking garages. Reduced the building size threshold (measured in square feet) for when demand responsive lighting controls are required.

Outdoor Lighting Controls and Equipment (§130.2): Edited for clarity. Removed exceptions to the outdoor lighting equipment and control requirements in this section. Replaced cutoff requirements with requirements for Backlight (light applied to the back of a subject being lit), Uplight (light applied from below a subject being lit), and Glare ratings. Reduced the threshold luminaire wattage for when light distribution requirements apply. Added requirements for outdoor lighting to be switched independently from other electrical loads, and for certain outdoor luminaires to be controlled by multi-level motion sensors (where light fixtures have a low light level for periods when no motion is detected, and a higher light level for when motion is detected), part-night lighting control devices (controls that reduce or turn off outdoor lighting for a portion of the night), or centralized time-based zone lighting controls (where lighting in multiple zones can be scheduled to turn on and off from a central location).

Sign Lighting Controls (§130.3): Edited for clarity.

Lighting Control Acceptance (§130.4): Edited for clarity. Added lighting control certification requirements.

Electrical Power Distribution Systems (§130.5): Added entire section, with new requirements for service metering, disaggregation of electrical circuits, maximum voltage drop, receptacle circuit controls, demand response signals, and energy management control systems; added Table 130.5-A to summarize the minimum requirements for metering electrical loads.

PERFORMANCE AND PRESCRIPTIVE COMPLIANCE APPROACHES

Performance and Prescriptive Compliance Approaches (§140.0): Edited for clarity. Modified the basis of all climate zone descriptions from metes and bounds to zip codes.

Performance Compliance Approach: Energy Budgets (§140.1): Edited for clarity. Added explanation that the requirements for Compliance Software certification by the Energy Commission are documented in the Nonresidential ACM Approval Manual.

Prescriptive Approach (§140.2): Clarified that buildings must be designed, constructed and installed to meet the new prescriptive requirements for Covered Processes.

PRESCRIPTIVE STANDARDS

Building Envelopes (§140.3): Edited for clarity. Updated the prescriptive envelope criteria in Table 140.3-A to reflect the revised cool roof requirements and to revise and simplify the fenestration requirements. In addition:

Exterior Roofs and Ceilings (§140.3(a)1): Removed climate zone specific exceptions to roof reflectance and emittance requirements. Increased minimum roof reflectance requirements. Added steep-sloped roof reflectance and emittance requirements for high-rise residential and hotel/motel occupancies.

Fenestration (§140.3(a)5): Revised fenestration heat transfer criteria and added new requirements for visual transmittance and use of area-weighted performance ratings for U-factors, relative solar heat gain coefficients, and visual transmittance.

Air Barrier (§140.3(a)9): Added air barrier requirements for buildings in climate zones 10-16.

Other Envelope Trade Off Approaches (§140.3(b)): Eliminated the Overall Envelope Energy Approach as a prescriptive compliance option.

Daylighting (§140.3(c)): Modified daylighting requirements for large enclosed spaces in low-rise buildings, including increases in the percent of floor area that must be daylit.

Space Conditioning Systems (§140.4): Edited for clarity. In addition:

Fan Power (§140.4(c)): Replaced requirements for variable air volume capability in only large fans and motors with requirements for variable airflow capability in various sizes of multiple zone and single zone HVAC systems (See also §140.4(m)). Added requirement for fractional fan and pump motors to be electronically-commutated or to have a minimum efficiency.

Zone Controls (§140.4(d)): Removed the variable air volume exception to the requirement for controls that prevent simultaneous heating and cooling. Added requirement for direct digital control systems to include two stage heating controls. Removed an exception from the economizer requirements. Expanded the requirements for direct expansion systems to stage or modulate cooling capacity and to use economized air to the greatest extent possible.

Economizers (§140.4(e)): Added requirements for air economizers and return air dampers in the areas of warranty, drive mechanism, damper reliability testing, damper leakage, adjustable setpoint controls, relief air system and damper control sensor location, accuracy, and calibration. Updated the economizer and efficiency trade-offs in Tables 140.4(e)–A, and B, and the air economizer high air shut-off control requirements in Table 140.4(e)–C. Added requirements for all space conditioning systems to use integrated economizer controls (economizer controls that are interlocked with mechanical cooling controls, such that the economizer is used to the greatest extent possible, when appropriate, before mechanical cooling is used). Added requirements for direct expansion systems to stage or modulate cooling capacity, such that reduced cooling capacity must be delivered with a corresponding reduction in electrical power demand.

Chillers (§140.4(i)): Added requirement for chillers to adhere to ASHRAE 90.1 Path B efficiency levels (See Section 110.2 for chilling equipment efficiency requirements, including Path B).

Limitation on Air-Chillers (§140.4(j)): Changed the limitation on air-cooled chillers from 100 tons (when the chiller plant capacity exceeds 300 tons) to 300 tons (regardless of chiller plant capacity).

Fan Control (§140.4(m)): Added this subsection to describe the requirements for variable airflow capability in multiple zone and single zone HVAC systems.

Indoor Lighting (§140.6): Edited for clarity. In addition:

Actual Lighting Power Density (§140.6(a)): Raised the threshold for exempt portable lighting in conjunction with lowering of allowable watts per square foot for office lighting. Removed Power Adjustment Factors (PAFs, used in the Standards to provide prescriptive compliance credit for specific lighting controls

within the calculation of allowable lighting power densities) for daylighting where controls have been changed from prescriptive to mandatory requirements; simplified the applications of PAFs for other lighting controls. Expanded the explanations of PAFs available in Table 140.6–A to include the available credits for all lighting control applications recognized in the Standards. Because PAFs only apply to permanent lighting installations, criteria have been added for when furniture mounted general lighting can be considered permanently installed. Added installation inspection requirements to verify that the PAFs shown in building permits match the PAFs for the lighting controls actually installed. Revised the requirements for refrigerated cases to be consistent with the Title 20 Appliance Efficiency Regulations. Removed elevator lighting from the building lighting budget, in order to be consistent with national standards.

Allowed Lighting Power Density (§140.6(c)): Reduced the allowed lighting power for specific building types and function areas. The additional power credit provided to display lighting has been modified to account for different light fixture mounting heights; more credit is now allowed for display lighting mounted high on a side wall rather than display lighting mounted low on a side wall, since a light fixture mounted high on a wall will also provides some general lighting to the space. The term used for the lighting parameter that is a measure of the light falling on a horizontal surface, which is used to determine the allowable lighting power in a prescriptive compliance option, has been updated from “illuminance” to “illuminance level”, or “LUX” (the parameter has not changed, but the term used for this parameter has changed in order to be consistent with the new 10th Edition of the Illuminating Engineering Society’s Lighting Handbook). Added requirements for automatic daylight controls in secondary daylit zones.

Automatic Daylighting Controls (§140.6(d)): Added this subsection to describe a requirement for the installation of automatic daylight controls in secondary daylit zones. (Automatic daylight controls have sensors that measure how much light is entering a building space from windows or skylights and reduce the amount of electrical lighting accordingly. The secondary daylit zone is the area of the building located a horizontal distance from the window equal to twice the vertical distance between the floor and the top of the window.)

Outdoor Lighting (§140.7): Edited for clarity. Removed all language specific to local building standards (which local agencies can adopt if their ordinances save more energy than the Energy Commission’s building standards), most notably the additional amount of outdoor lighting power that was allowable in local ordi-

nances. Removed additional lighting power allowances for water feature lighting. Reduced additional lighting power allowances for general hardscape (paved areas like streets and sidewalks) and for building entrances and exits, vehicle service station canopies, and outdoor dining areas.

Signs (§140.8): Edited for clarity. Added an electronic ballast option to the requirement that fluorescent lighting systems use lamps with a minimum color rendering index.

Covered Processes (§140.9): Added entire section. Added subsections for Computer Rooms, Commercial Kitchens, and Laboratory Exhaust Systems.

Computer Rooms (§140.9(a)): Added entire subsection, with new requirements for economizers, prevention of reheat, humidification, fan power consumption, fan control and air containment.

Commercial Kitchens (§140.9(b)): Added entire subsection, with new requirements for replacement air, exhaust airflow rates, kitchen ventilation, and kitchen exhaust system acceptance.

Laboratory Exhaust Systems (§140.9(c)): Added entire subsection, with new requirement for spaces with laboratory exhaust hoods to be capable of reducing zone exhaust and makeup airflow rates to regulated minimums when the exhaust hoods are not operating.

ADDITIONS, ALTERATIONS AND REPAIRS

Additions (§141.0): Edited for clarity, including new explanations of when new solar zone requirements (see Section 110.10) apply.

Alterations (§141.0): Edited for clarity, including new explanations of when new solar zone requirements in Section 110.10 apply, and a simplification of the fenestration prescriptive requirements. Updated roof reflectance criteria and added a reflectance and insulation trade-off option. Removed an exception to replacement roof requirements for specific roof and recoating types. Added a requirement for space conditioning systems with economizers to have control systems that integrate economizer and cooling operations. Updated indoor lighting requirements, including two new tables that summarize luminaire alteration and modifications-in-place requirements (Table 141.0-C and D); reduced the altered-luminaires-per-space threshold for when lighting alterations must comply with these requirements. Added requirements for outdoor lighting systems to meet the applicable prescriptive requirements of outdoor lighting systems for new construction, depending on connected lighting load and percent of replacement luminaires.

c. STANDARDS CHANGES FOR LOW-RISE RESIDENTIAL BUILDINGS

MANDATORY REQUIREMENTS

Insulation (§150.0(a-d)): Edited for clarity. Increased minimum ceiling, wall and floor insulation levels.

Hotel and Motel Guest Rooms (§150.0(g)): Removed language for air retarder wraps in this subsection because it is duplicative with the revised subsection (§150.0(g)) for vapor retarders. This subsection is now used to explain new requirements for hotel and motel guest room lighting and space-conditioning system controls. The lighting system controls must be capable of turning off luminaires and half of the plug-in receptacles when the hotel room is not occupied. The space conditioning controls must be capable of resetting the room thermostat setpoint temperature either up (during cooling) or down (during heating) when the room is not occupied.

Vapor Retarders (§150.0(g)): Clarified requirements for vapor retarders in exterior walls by adding specific references to Class I and Class II vapor retarders (each vapor retarder “class” refers to a specific level of vapor resistance; these class differentiations are used in the California Building Code, as well as other national and international building codes).

Space Conditioning Equipment (§150.0(h)): Added requirements for the location of outdoor condensing units and the installation of central forced-air furnaces to ensure proper operations. (Condensing units must now be located five feet or more from a dryer vent and forced-air furnaces must be designed and installed to meet the manufacturer’s maximum temperature rise (the temperature increase from the furnace inlet to the furnace outlet) specifications.)

Hot Water Piping (§150.0(j)): Edited for clarity. Added requirement for all nonrecirculating piping 3/4 inch in diameter or larger to be thermally insulated. Increased maximum length of 1 inch pipe allowed for nonrecirculating piping. Added requirements for all below grade hot water piping to be insulated.

Residential Lighting (§150.0(k)): Edited for clarity. Modified the method used to classify a luminaire as high efficacy. Added requirements for energy management controls systems (EMCS) and multi-scene programmable controllers to be capable of complying with the dimming lighting control requirements; EMCS must also be capable of complying with the vacancy sensing lighting control requirements. Added requirements for one high efficacy luminaire to be installed in each bathroom and for vacancy sensors to be installed in garages. Installation requirements for exhaust fans have been moved to Section 110.7 — these requirements belong in the section of the Standards that explains the

mandatory features of all mechanical equipment, regardless of building type. Added new lighting control installation verification requirements.

HVAC Ducts, Plenums and Fans (§150.0(m)): Edited for clarity. Added requirement for all conditioned air ducts to be sealed and field tested for duct leakage compliance. Added requirements for the configuration, efficiency, pressure drop, and product labeling of air filtration devices. Added requirements for duct system and air filter grille sizing, with an option to meet airflow and fan watt draw test requirements instead of meeting these sizing requirements. Added a prohibition on the use of bypass ducts to deliver conditioned supply air directly to the return air duct system. Changed criteria — that zonally controlled forced air systems meet minimum airflow and maximum fan watt draw requirements in every zonal control mode — from a prescriptive to a mandatory requirement. Added requirement for field verification when using the option to put space conditioning ducts within the living space of a house (instead of insulating and sealing ducts typically located in the attic).

Water Heating Systems (§150.0(n)): Edited for clarity. Added requirements for gas or propane water heating systems serving individual dwelling units to be designed to allow for future installations of high efficiency water heaters (requirements were added for electrical receptacle proximity, venting, drainage, and fuel supply pipe sizing).

Ventilation for Indoor Air Quality (§150.0(o)): Edited for clarity. Added requirement for ventilation system performance to be field verified.

Fenestration Products (§150.0(q)): New subsection that places a maximum conductive heat transfer (U-factor) requirement on all fenestration products separating conditioned space from unconditioned space.

Solar Ready (§150.0(r)): Added subsection to refer to the mandatory requirements for solar ready buildings that are contained in Section 110.10.

PERFORMANCE AND PRESCRIPTIVE COMPLIANCE APPROACHES

Performance and Prescriptive Compliance Approaches (§150.1(a)): Edited for clarity. Modified the basis of all climate zone descriptions from metes and bounds to zip codes.

Performance Standards (§150.1(b)): Edited for clarity. Added the explanation that the requirements for Compliance Software certification by the Energy Commission are documented in the Nonresidential ACM Approval Manual.

PRESCRIPTIVE STANDARDS

Component Packages (§150.1(c)): Removed alternative prescriptive component packages; Package A is now the only component package contained in the residential prescriptive standard. Updated footnotes in Table 150.1–C.

Insulation (§150.1(c)1): Edited for clarity. Added requirement for roof deck insulation. Increased the insulation requirements in Table 150.1–C. Removed exception to perimeter insulation for slab edges between conditioned space and concrete slabs of unconditioned spaces.

Radiant Barrier (§150.1(c)2): Added exception to radiant barrier requirement when roof deck insulation is installed below the roof deck.

Fenestration (§150.1(c)3): Edited for clarity. Reduced the maximum conductive heat transfer and relative solar heat gain requirements of vertical fenestration products.

Shading (§150.1(c)4): Edited for clarity.

Thermal Mass (§150.1(c)5): Removed interior mass capacity requirements that were specific to a prescriptive component package that has been eliminated.

Space Heating and Cooling (§150.1(c)7): Edited for clarity. Installing whole house fans (a fan, typically installed in the attic, that pulls cooler outside air through open windows, into the house, and forces warmer air out through attic vents), inspecting the quality of the insulation installation, verifying the proper refrigerant charge within the space conditioning system, and verifying the mechanical ventilation system performance are all added to the list of measures required in the prescriptive compliance approach.

Water Heating Systems (§150.1(c)8): Added requirements for water heating systems serving multiple dwelling units to be equipped with a demand control system, to split the recirculation system into two loops, and to provide a specific percentage of the annual water heating energy with a solar thermal system, depending on climate zone. Added requirements for electric resistance water heating systems serving single dwelling units: they may be installed only if gas service is unavailable, and if they are installed then they must be installed within the building envelope and there must also be a solar system that provides at least half of the annual water heating energy.

Thermostats (§150.1(c)10): Removed this subsection; all thermostat requirements are now mandatory and contained in Section 110.2.

Space Conditioning Ducts (§150.1(c)10): Edited to be consistent with the new mandatory requirements for duct sealing in Section 150.0(m).

Central Fan Integrated Ventilation Systems (§150.1(c)11): Added requirement for ventilation system performance to be field verified.

Roofing Products (§150.1(c)12): Increased the minimum aged solar reflectance requirements for low-sloped roofs in specific climate zones.

Quality Insulation Installation (§150.1(c)13): Added new subsection to require field verification of insulation installation.

ADDITIONS AND ALTERATIONS

Additions (§150.2(a)): Relocated the exception for indoor air quality ventilation. Clarified that only the whole-building ventilation component of the indoor air quality ventilation requirements of subsection 150.0(o) do not need to be met by additions. Added exceptions to the mandatory ceiling insulation and solar zone requirements for additions.

Prescriptive Compliance Approach (§150.2(a)1): Edited for clarity. Increased the minimum wall insulation level for additions 1000 square feet or less.

Performance Compliance Approach (§150.2(a)2): Edited for clarity. Increased the minimum wall insulation level required in existing structures. Electric resistance water heaters used in the performance compliance approach must now comply with the Appliance Regulations in Title 20.

Alterations

Prescriptive Compliance Approach (§150.2(b)1): Edited for clarity. Added an exception to the solar ready requirements.

Fenestration (§150.2(b)1.A): Added an exception to the replacement fenestration requirements, such that if an alteration project has a limited amount of glazing area with acceptable thermal and solar gain performance, then the alteration project does not need to meet the replacement fenestration requirements.

Duct Replacement (§150.2(b)1.D): Edited to clarify that the requirements specified for duct systems in 150.0(m) also apply to duct replacements.

Duct Sealing (§150.2(b)1.E): Edited for clarity. Modified subsection to require duct sealing in all climate zones.

Space Conditioning System (§150.2(b)1.F): Edited for clarity. Added language that explains how non-standard space conditioning systems (systems other than ducted split system central air conditioners and ducted split system heat pumps) can comply with the refrigerant verification requirements (this is necessary because the verification tests included in the Reference Appendix will not work for non-standard systems).

Roofs (§150.2(b)1.H): Edited for clarity. Increased the minimum aged solar reflectance for steep-sloped roofs in specific climate zones. Increased the minimum

aged solar reflectance and thermal emittance requirements for low-sloped roofs in specific climate zones. Added an exception that allows solar reflectance and insulation trade-offs.

Performance Compliance Approach (§150.2(b)2): Edited for clarity. Added an exception to the solar ready requirements. Modified the criteria for when the performance approach can be used for alteration projects. Modified the criteria for when the performance approach uses the building project existing conditions rather than the prescriptive requirements to generate the standard design used to generate the energy budget that the proposed alteration must meet.

2. PART 1, CHAPTER 10

ADMINISTRATIVE REGULATIONS CHANGES

Definitions (§10-102): Added new definitions, deleted obsolete definitions, and modified existing definitions for clarification and to support changes to the Standards language.

Compliance Documentation (§10-103(a), (b)): Added documentation requirements for nonresidential building commissioning. Clarified the format, content, informational order, and signature authority for the Certificate of Compliance. Added requirements for submission of compliance documentation to the Commission Compliance Data repository. Clarified the building permit application processes and enforcement agency authority. Clarified the content, signature authority, and submittal requirements for the Installation Certificate, Certificate of Acceptance, and Certificate of Field Verification and Diagnostic Testing. Clarified the requirement for builders to provide compliance documentation to building owners.

Enforcement Agency Requirements (§10-103(d)): Edited for clarity.

Locally Adopted Energy Standards (§10-106): Edited for clarity.

Compliance Software, Alternative Component Packages, Exceptional Methods, and Data Registries (§10-109): Edited for clarity and reorganized into subsections.

Certification and Labeling of Fenestration Products (§10-111): Edited for clarity. Added requirement to include visual transmittance data on all fenestration labels.

Certification and Labeling of Roofing Products (§10-113): Edited for clarity.

Outdoor Lighting Zones (§10-114): Removed all language on local outdoor lighting ordinances.

Data Registries and Repositories (§10-115): Added this section on the submittal requirements for data registries, which explains how data registries and electronic data repositories will be approved by the Energy

Commission. A “data registry” is a web service hosted by an entity that is approved by the Energy Commission and that receives and stores the official versions of Standards compliance documents. A “data repository” is an electronic database that stores code compliance documentation at the Energy Commission.

3. CHANGES TO THE ALTERNATIVE CALCULATION METHOD APPROVAL MANUALS

The Residential and Nonresidential Alternative Calculation Method (ACM) Approval Manuals are adopted by regulation to support the Standards in Part 6. The ACM Approval Manuals contain requirements that developers of computer software must meet for the Energy Commission to approve their software for showing compliance with the Standards, including how compliance software programs are certified and decertified by the Energy Commission, and what needs to be included in the application package provided to the Energy Commission for software certification.

Residential Alternative Calculation Methods Approval Manual

The most significant change for the Residential ACM Approval Manual is the new requirement for all compliance software to include the Compliance Manager software, which developed by the Energy Commission, to perform compliance calculations and to produce compliance reports. The Compliance Manager software (1) develops a standard building design that meets the applicable energy budget, (2) compares the proposed building design to it, and, if the proposed building complies, generates compliance reports. Vendors interested in including the Compliance Manager into third-party compliance software must meet the criteria documented in the Residential ACM Approval Manual.

The other major change to the Residential ACM Approval Manual is elimination of all the accuracy tests that were previously required for third-party compliance software certification. Since the Compliance Manager software will separately be tested by the Energy Commission during the development process, the accuracy of the Compliance Manager does not need to be retested when it is included in a third-party compliance software program. The remaining accuracy tests ensure that the interfaces between each Commission-approved third-party tool and the Compliance Manager software are functioning appropriately.

Nonresidential Alternative Calculation Methods Approval Manual

The most significant changes to the Nonresidential ACM Approval Manual are those indicated above.

4. CHANGES TO THE REFERENCE APPENDICES

The Reference Appendices are organized into three sections, the Joint Appendices, Residential Appendices, and the Nonresidential Appendices. The 2013 Standards changes to the Reference Appendices are indicated below:

JOINT APPENDICES

JA1 — Glossary: Added, modified, and deleted terms to reflect the updated Standards language.

JA2 — Reference Weather/Climate Data: Added zip codes to the city and county climate zone table. Removed an explanation of a weather data format that is no longer used in the Standards.

JA3 — Time Dependent Valuation (TDV) Data: Updated all Time Dependent energy Valuation (TDV) data. TDV data is used in the performance compliance approach to incorporate the time-varying costs of energy into the energy budgets.

JA4 — U-factor, C-factor, and Thermal Mass Data: Added, modified, and deleted data to reflect the updated Standards language. JA4 is no longer used by either the residential or nonresidential compliance software so many of the existing entries are eliminated. Only the heat transfer data for assemblies relevant to the prescriptive compliance approach are now included in this appendix.

JA5 — Reference Design For Upgradeable Set-back Thermostats: Added this appendix to support the new mandatory requirements for thermostats.

JA6 — HVAC Fault Detection and Diagnostic Technology: Expanded this appendix to include both charge indicator display and saturation pressure measurement sensor specifications. The new title of this appendix reflects this scope expansion. Specifications for Saturation Pressure Measurement Sensors (SPMS) are provided as a substitution for the existing refrigerant pressure diagnostic technology, such that a non-intrusive procedure for a HERS rater to access the refrigerant pressure measurements during the refrigerant charge verification procedure is available.

JA7 — Data Registry Requirements: Added this appendix to reflect updates to the Standards language. This appendix covers the roles and responsibilities of authorized registry users, document registration requirements, electronic and digital signature requirements, data exchange requirements, and data registry approval.

JA8 — Qualification Requirements for Residential Luminaires Using LED Light Sources: Modified this appendix to reflect the changes to the lighting Standards. Existing test protocols are replaced with references to nationally recognized test standards. Existing language from the mandatory and prescriptive code

sections for residential lighting are restated here to organize all qualification requirements into one reference appendix.

JA9 — Qualification Requirements for Low Leakage Air Handling Units: Added this appendix to reflect updates to the Standards language.

Residential Appendices

RA1 — Special Case Residential Field Verification and Diagnostic Test Protocols: Replaced the existing RA1 appendix with explanations of residential field test protocols to reflect updates to the Standards language. The HVAC sizing methodology is removed because it is relevant only as documentation of the residential ACM reference method and will therefore be documented in the Energy Commission’s Residential ACM Reference Manual. A new process for special case test protocol approval is documented. Field verification and diagnostic test protocols are added for measuring HVAC system refrigerant charge.

RA2 — Residential HERS Verification, Testing and Documentation Procedures: Modified this appendix for clarity and to reflect updates to the Standards language. References are added to the Compliance new JA7 for data registry requirements and the revised RA1 for special case verification protocols. Roles are explained for the documentation author, installing contractor, and Home Energy Rating Service (HERS) rater in the document registration procedures.

RA3 — Residential Field Verification and Diagnostic Test Protocols: Modified this appendix to clarify existing test protocols and reflect updates to the Standards language. Significant revisions are made to the refrigerant charge and quality insulation installation test protocols. The verified duct design compliance description and the duct surface area, R-value and leakage verification protocols are reorganized and rewritten for clarity. A reference to the new JA9 appendix is added for low leakage air handler testing. New field verification protocols are added for duct designs, air filter devices, zonally controlled HVAC systems and mechanical ventilation. Specifications are updated or added for sensor accuracy and response times, flow capture hood airflow measurements, digital revenue meter measurements, and charge indicator display devices.

RA4 — Eligibility Criteria for Energy Efficiency Measures: Modified this appendix for clarity. Expanded the solar water heating system eligibility criteria.

RA5 — Interior Mass Capacity: Removed this entire appendix. Interior mass capacity is no longer used in the Standards as a performance metric that requirements are based on.

Nonresidential Appendices

NA1 — Nonresidential HERS Required Verification, Testing and Documentation Procedures: Modified this appendix to reflect updates to the Standards language. The document registration procedures are updated and references to new appendices JA7 for registry requirements and RA1 for special case verification protocols are added.

NA2 — Nonresidential Field Verification and Diagnostic Test Procedures: Modified the duct leakage protocols in this appendix to improve clarity and enforceability.

NA3 — Fan Motor Efficiencies: Updated the efficiency data in this appendix to reflect updates to the Standards language.

NA4 — Compliance Procedures for Relocatable Public School Buildings: The proposed regulations make no substantive changes to this appendix.

NA5 — Envelope Tradeoff Procedure: Removed this entire appendix to reflect updates to the Standards language. The envelope tradeoff procedure is no longer specified as a prescriptive compliance option for nonresidential buildings.

NA6 — Alternate Default Fenestration Procedure to Calculate Thermal Performance: Modified this appendix, including a new calculation for the default visual transmittance.

NA7 — Acceptance Requirements for Nonresidential Buildings: Modified this appendix to reflect updates to the Standards language. Construction inspection and functional testing requirements are added and expanded for HVAC, lighting, and process equipment and controls.

NA8 — Luminaire Power: The title is changed to accurately represent the content. Many older lighting technologies are deleted because they are no longer commonly used. Updates are made to the description of several technologies to reflect changes to current practices for lamp and ballast combinations.

NA9 — Nonresidential Fault Detection and Diagnostics: Added this new appendix to reflect updates to the Standards language. This appendix describes the system requirements of air-cooled unitary direct-expansion equipment related to unit controls, including the fault detection capabilities required for this equipment type.

NA10 — Nonresidential Documentation procedures: Added this new appendix to reflect updates to the Standards language.

5. CHANGES TO THE VOLUNTARY Green Building Standards (TITLE 24, PART 11)

The existing text has been entirely replaced by proposed language that includes a performance standard and a limited number of prerequisites.

COMPARABLE FEDERAL STATUTES
OR REGULATIONS

There are no federal energy standards applicable to nonfederal buildings. (The current and proposed California building standards do, however, reference federal energy standards for particular *appliances*.)

CONSISTENCY AND COMPATIBILITY WITH
EXISTING STATE REGULATIONS

There is no inconsistency or incompatibility with existing state regulations.

OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE ENERGY
COMMISSION, OR TO ANY SPECIFIC
REGULATION OR CLASS OF REGULATIONS
PROPOSED FOR ADOPTION

All of the laws applicable to the proposed Standards, primarily Public Resources Code 25402 and 25402.1, are discussed above.

POTENTIAL MANDATES ON LOCAL
AGENCIES OR SCHOOL DISTRICTS

The Energy Commission has determined that the proposed regulatory action would not impose a new mandate on local agencies. Existing law already obligates local building departments to serve as enforcement agencies for the Standards (see Public Resources Code sections 25402(a)–(b), 25402.1). Existing law also already requires compliance with the Standards as they apply to school buildings, and all other buildings, owned by local agencies (see California Code of Regulations, Title 24, Part I, Administrative Regulations of Department of School Administration (DSA)). While the proposed Standards add requirements for schools and other building types owned by local agencies, those requirements are the same as those applicable to all non-residential buildings regardless of owner. Moreover, the proposed Standards recognize the unique characteristics of relocatable public school buildings, and they establish procedures to facilitate compliance by relocatables. Finally, the Standards for schools, and for all other buildings, are cost effective, and they will thereby reduce the costs of building and operating school buildings over their useful life.

ESTIMATE OF COSTS OR SAVINGS

See the Economic and Fiscal Analysis (Form 399), published simultaneously with this NOPA, for complete details. In sum:

- A. **Total Statewide costs and benefits:** The Standards are estimated to deliver \$1,684 million in benefits at a cost of \$1,212 million, for a cost–effectiveness ratio of 1.4 to 1.
- B. **Cost or Savings to any state agency:** Buildings owned and occupied by State agencies are required to comply with the Standards, as are all other nonresidential buildings. State agencies will benefit from reduced energy bills that more than pay for the costs of the Standards.
- C. **Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code:** The Standards do not result in new mandates to local agencies. Buildings owned and occupied by local agencies are required to comply with the Standards as any other nonresidential building. Local agencies will benefit from reduced energy bills that more than pay for the costs of the Standards.
- D. **Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code:** School buildings are covered by the Standards, and the Administrative regulations of the DSA require public school buildings to comply. Costs are not required to be reimbursed. Furthermore, schools will benefit from reduced energy bills that more than pay for the costs of the Standards.
- E. **Other nondiscretionary cost or savings imposed on local agencies:** No.
- F. **Cost or savings in federal funding to the state:** No.

INITIAL DETERMINATION OF
NO SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

The Energy Commission has made an initial determination that the adoption of the proposed Standards will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states, as is described in more detail below. Comments on this determination (as on everything in this NOPA) are welcome.

- A. Identification of the types of businesses that would be affected.

The Standards will require energy efficiency measures for all new nonresidential construction, but those measures are cost–effective, so businesses will experience a positive economic impact. Indirectly, the Standards will require changes in practice, and the retraining

of employees, in businesses that are involved in the design and construction of buildings, in compliance analysis and documentation, and in field verification. Any costs attributable to such changes and retraining would be short-term in nature, since the incremental cost increases for new technologies will not persist once these technologies become mainstream, and building practice changes requiring retraining will not result in ongoing cost increases. In any case, these incremental construction cost increases would ultimately be borne by the beneficiary of the Standards, the entity paying reduced energy bills.

B. A description of the projected reporting, record keeping, and other compliance requirements that would result from the proposed action.

Most reporting, record keeping, and compliance duties associated with the Standards do not change. New acceptance requirements for nonresidential buildings will formalize and standardize documentation, but these requirements exist in a less structured way in the current Standards. Documentation authors who specify measures requiring field verification will need to notify a professional who will perform the acceptance tests, but this notification can be done by phone or electronically in very little time. Any such costs would, therefore, be insignificant, and to the extent they exist, would ultimately be borne by the beneficiary of the Standards, the entity paying reduced energy bills. It is necessary for the health, safety, or welfare of the people of the state that the business-report regulations in the proposed Standards apply to businesses.

C. Evidence relevant to economic impacts

The basis for the Commission’s findings on economic impacts is that the Standards are cost effective, and

therefore will have a beneficial economic impact on the owners and occupants of buildings built to comply with the Standards. Evidence for the cost effectiveness of the Standards requirements are contained in the “Documents Relied Upon” listed in the Initial Statement of Reasons and on the Commission’s website.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Energy Commission has determined that energy bill savings substantially in excess of compliance costs will be received by all private persons and businesses directly affected by the proposed Standards. The Energy Commission estimates that an average of \$3,300 additional single family residential construction costs may result from the proposed Standards. This estimate is likely more than what will be realized, since it does not account for volume pricing or reductions in technology costs once these technologies are provided to a mass market. The Energy Commission estimates that the nonresidential Standards may result in an incremental construction cost of \$45,000 for a 15,000 square foot building, less than 2% of typical construction costs for this building size. This estimate is also substantially higher than what will likely be realized, due to the fact that this cost estimate includes all proposed changes to the nonresidential Standards, but an individual building built under these Standards will not need to include every new efficiency measure in the proposed Standards. Table 1 below summarizes the expected costs and net present value energy bill savings for all new homes and buildings expected to be permitted in 2014.

Table 1. Summary of Statewide Costs and Energy Bill Savings

Sector	Statewide Measure Costs	Statewide Energy Bill Savings	Statewide Net Savings
Residential	\$132.46 Million	\$319.77 Million	\$187.31 Million
Nonresidential	\$1.08 Billion	\$1.37 Billion	\$285.29 Million
Total	\$1.21 Billion	\$1.68 Billion	\$472.60 Million

ASSESSMENT OF THE EFFECTS OF
THE PROPOSED STANDARDS ON JOBS AND
BUSINESS EXPANSION, ELIMINATION,
OR CREATION

The Energy Commission has made a preliminary assessment on whether, and if so to what extent, the proposed Standards will affect the following:

- A. The creation or elimination of jobs within the State of California.

Jobs will not be eliminated. It is possible that new jobs may be created as a result of the new compliance procedures. In addition, because the Standards will save hundreds of millions of dollars in energy costs, there will be more money in the economy that can be used for job creation.

- B. The creation of new businesses or the elimination of existing businesses within the State of California.

Businesses will not be eliminated. It is possible that new businesses will be created to provide field verification and other compliance services, and to supply energy efficiency products.

- C. The expansion of businesses currently doing business with the State of California.

It is likely that businesses currently doing business in California to provide compliance-related services and energy-efficiency products will be expanded.

- D. Benefits of the proposed standards to the health and welfare of California residents, to worker safety, and to the state's environment.

The proposed Standards modify existing field verification tests, add new verification tests, and add new equipment specifications that will improve ventilation system installations and operations. This will benefit the health and welfare of building occupants, who are typically California residents, as well as workers in these buildings. The proposed Standards should have no effect on worker safety. The increases in energy and water efficiency stringency in the proposed Standards will benefit California's environment by reducing the consumption of natural resources and the greenhouse gas emissions that the use of these resources generate.

INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS

The Energy Commission has made an initial determination that the proposed Standards would have a sig-

nificant effect on housing costs. The initial costs of housing construction will rise, but homeowners and occupants will be the beneficiaries of energy bill savings substantially in excess of the initial costs, so the net result will be making housing more affordable.

CONSIDERATION OF ALTERNATIVES

The Energy Commission has made a preliminary determination that no reasonable alternative considered by it, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose of the proposed Standards or would be effective (and cost-effective) as, and less burdensome to affected private persons than, the proposed Standards.

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

AVAILABILITY OF
RULEMAKING DOCUMENTS

All of the information on which the proposed Standards are based is contained in the rulemaking file, which is available for public review at the Commission's Dockets Office, by contacting the persons named below, or on this website:

www.energy.ca.gov/title24/2013standards/rulemaking

If the proposed Standards are adopted, then interested parties may obtain a copy of the Final Statement of Reasons once it has been prepared by going to this website, or by making a written request to the contact person named below.

ENERGY COMMISSION
CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

Questions on procedural and administrative issues should be addressed to:

Ron Yasny
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street, MS-25
Sacramento, CA 95814
(916) 651-2915
Email: ryasny@energy.ca.gov

CONTACT PERSON FOR SUBSTANTIVE
AND TECHNICAL QUESTIONS

Mazi Shirakh
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street, MS-37
Sacramento, CA 95814
(916) 654-3839
Email: mshirakh@energy.ca.gov

If Mr. Shirakh is not available, contact:

Martha Brook
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street, MS-37
Sacramento, CA 95814
(916) 654-4086
Email: mbrook@energy.ca.gov

PUBLIC PARTICIPATION

For assistance in participating in the rulemaking proceeding, please contact the Energy Commission's Public Adviser's Office, at (916) 654-4489, toll free at (800) 822-6228, or by email at pao@energy.ca.gov.

If you have a disability and require special accommodations to attend or participate in a hearing, please contact Lou Quiroz at (916) 654-5146 five days before the hearing.

FINAL STATEMENT OF REASONS

If the proposed amendments are adopted, the Energy Commission will prepare a Final Statement of Reasons. This document will update the Initial Statement of Reasons and respond to public comments. This document can be obtained after the conclusion of the rulemaking by contacting Ron Yasny at (916) 651-2915 or by email at ryasny@energy.ca.gov.

WEBSITE INFORMATION

This NOPA, the Initial Statement of Reasons, the Express Terms, any 15-day language issued subsequently, and all other relevant rulemaking documents can be accessed at the Energy Commission's website at: www.energy.ca.gov/title24/2013standards/rulemaking/

Mail Lists: 50, 52, 53, and 480
Mailing Date: February 24, 2012

GENERAL PUBLIC INTEREST

BOARD OF PILOT COMMISSIONERS

**BUSINESS, TRANSPORTATION
AND HOUSING AGENCY
BOARD OF PILOT COMMISSIONERS
FOR THE BAYS OF SAN FRANCISCO,
SAN PABLO, AND SUISUN**

**NOTICE OF EXTENSION OF PUBLIC
COMMENT PERIOD**

Notice is hereby given that the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) has extended the public comment period for the proposed regulations published in the November 25, 2011 California Regulatory Notice Register, Notice File No. Z2011-1109-01. The Board proposes to adopt the regulatory changes to Title 7, Section 19, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Written comments will be accepted by the Board until 5:00 p.m. on March 23, 2012. Submit comments to:

Business, Transportation and Housing Agency
Attn: Amanda Esquivias
980 9th Street, Suite 2450
SACRAMENTO, CA 95814
Amanda.Esquivias@bth.ca.gov

**DEPARTMENT OF HEALTH CARE
SERVICES**

**THE DEPARTMENT OF HEALTH CARE
SERVICES IS PROPOSING AMENDMENTS TO
THE 10 PERCENT OUTPATIENT PROVIDER
RATE REDUCTION SPA 11-009**

The Centers for Medicare and Medicaid Services (CMS) approved State Plan Amendment (SPA) 11-009

on October 27, 2011, to reduce Medi-Cal payments by 10 percent for dates of service on or after June 1, 2011, as specified in Assembly Bill 97 (Statutes of 2011). Upon approval of SPA 11-009, CMS requested that the Department of Health Care Services (DHCS) respond to issues that were identified in a separate companion letter.

DHCS is amending portions of SPA 11-009 to make minor, non-substantive changes to the general reimbursement methodology section for outpatient services and to the section for Home Health Agency rates. The changes include adding outpatient service categories to the outpatient reimbursement methodology section and adding a link to the Medi-Cal rates website to the Home Health Agency rates section. SPA 12-006, which includes the proposed amendments, will be submitted to CMS by March 25, 2012. The effective date of SPA 12-006 will be January 1, 2012.

PUBLIC REVIEW AND COMMENTS

Written comments (or requests for copies of the proposed amendments) may be submitted to: Arlene Sakazaki, Chief, Provider Rate Section; Fee-For-Service Rates Development; Department of Health Care Services; MS 4600; P.O. Box 997417; Sacramento, CA 95899-7417.

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

Southern Mountain Yellow-Legged Frog
(*Rana muscosa*)
Sierra Nevada Yellow-Legged Frog
(*Rana sierrae*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2075.5 of the Fish and Game Code, the California Fish and Game Commission (Commission), at its February 2, 2012, meeting in Sacramento, made a finding that the southern mountain yellow-legged frog (*Rana muscosa*) warrants listing as an endangered species and the Sierra Nevada yellow-legged frog (*Rana sierrae*) warrants listing as a threatened species.

NOTICE IS ALSO GIVEN that the Commission, consistent with Fish and Game Code Section 2075.5 proposes to amend Section 670.5, Title 14, California Code of Regulations, to add the southern mountain yellow-legged frog (*R. muscosa*) to the list of endangered species and the Sierra Nevada yellow-legged frog (*R. sierrae*) to the list of threatened species. The proposed

amendment will be scheduled for a future Commission meeting.

OAL REGULATORY DETERMINATIONS

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATION (Summary Disposition)

(Pursuant to Government Code Section 11340.5 and Title 1, section 270, of the California Code of Regulations)

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: February 8, 2012
To: Kenneth Keel
From: Chapter Two Compliance Unit
Subject: **2012 OAL DETERMINATION NO. 1 (S) (CTU2011-1223-01)**
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation a memorandum titled "Single Occupancy Cell Criteria"

On December 23, 2011, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether a memorandum titled "Single Occupancy Cell Criteria" constitutes an underground regulation. The memorandum is dated December 9, 2011, and signed by a Facility Captain at Folsom State Prison. The memorandum sets out a list of criteria to be used to determine individual eligibility for single occupancy cell housing. The memorandum is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as

defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

. . .

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

¹ “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

² Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

“Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

Similarly, the rule challenged by your petition was issued by Folsom State Prison and applies solely to the inmates of Folsom State Prison. Inmates housed at other institutions are governed by those other institutions’ criteria for single cell occupancy. Therefore, the rule is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.³

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/
Debra M. Cornez
Assistant Chief Counsel/
Acting Director

/s/
Kathleen Eddy
Senior Counsel

Copy: Matthew Cate
Tim Lockwood
Rick Hill, Warden, Folsom State Prison

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: February 8, 2012
To: John Dawson
From: Chapter Two Compliance Unit
Subject: **2012 OAL DETERMINATION NO. 2 (S)**
(CTU2012-0112-01)
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

³ The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.
(B) The challenged rule is contained in a California statute.
(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule. [Emphasis added.]

Petition challenging as an underground regulation Operations Procedure 108, at Pleasant Valley State Prison

On January 12, 2012, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether Operations Procedure 108, at Pleasant Valley State Prison constitutes an underground regulation. Operations Procedure 108 is titled “Level IV Sensitive Needs Yard” and establishes guidelines to facilitate daily operations on Pleasant Valley State Prison’s Sensitive Needs Yard. Operations Procedure 108 was signed by the warden at Pleasant Valley State Prison and is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution.

¹ “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

² Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

“Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter–institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

. . . .

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the rule challenged by your petition was issued by Pleasant Valley State Prison and applies solely to the inmates of Pleasant Valley State Prison. Inmates housed at other institutions are governed by those other institutions’ criteria for the operation of Level IV Sensitive Needs Yards. Therefore, the rule is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.³

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/
Debra M. Cornez
Assistant Chief Counsel/
Acting Director

/s/
Kathleen Eddy
Senior Counsel

Copy: Matthew Cate
Tim Lockwood

³ The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.
(B) The challenged rule is contained in a California statute.
(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.
(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule. [Emphasis added.]

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

File# 2012-0111-04
AIR RESOURCES BOARD
 Section 100 Correction for Cap and Trade Program

This action makes changes without regulatory effect to the Cap and Trade program regulations approved on December 13, 2011 in order to correct the presentation of the regulatory matter.

Title 17
 California Code of Regulations
 AMEND: 95802, 95833, 95841.1, 95852, 95852.1.1, 95852.2, 95870, 95891, 95892, 95914, 95920, 95971, 95974, 95975, 95977.1, 95979, 95980, 95981, 95981.1, 95985, 95986, 95987, 95990, 95993, 95994, 96021 REPEAL: 95893, 95943
 Filed 02/15/2012
 Agency Contact: Amy Whiting (916) 322-6533

File# 2012-0120-02
BOARD OF ACCOUNTANCY
 Practice Privilege Safe Harbor

In this “changes without regulatory effect” filing, the Board of Accountancy amends a regulation and repeals a regulation pertaining to “practice privileges” in California for public accountants whose principal place of business is not in California and who are licensed in other states. The filing includes amendments to a regulation entitled “Notification,” amending the “Notification Form” used for obtaining practice privileges. The filing also includes the repeal of a regulation entitled “Safe Harbor — Period of the Notice,” as the operative period of this regulation has expired and the regulation has been replaced by a recently-enacted statute.

Title 16
 California Code of Regulations
 AMEND: 28 REPEAL: 30
 Filed 02/09/2012
 Agency Contact:
 Matthew Stanley (916) 561-1792

File# 2011-1227-03
BOARD OF FORESTRY AND FIRE PROTECTION
 Utility Clearing Exemption

This regulatory action makes permanent the temporary exemption to the utility vegetation clearing requirements in which healthy, mature trees (trunks and limbs) sufficiently rigid so they do not present a risk to public safety may remain at least six inches from energized utility lines (for lines less than 75,000 volts). The exemption applies exclusively to public utilities lines in areas designated by the Board as State Responsibility Areas (SRAs) for fire protection.

Title 14
 California Code of Regulations
 AMEND: 1257
 Filed 02/08/2012
 Effective 02/08/2012
 Agency Contact: Eric Huff (916) 653-8031

File# 2012-0109-02
CALIFORNIA HORSE RACING BOARD
 Authorized Medications

This rulemaking action amends section 1844 of Title 4 of the California Code of Regulations to lower the authorized quantity, from 5 to 2 micrograms, of phenylbutazone, and to lower the authorized quantity, from 50 to 20 nanograms, of flunixin, which may be contained in a test sample.

Title 4
 California Code of Regulations
 AMEND: 1844
 Filed 02/14/2012
 Effective 02/14/2012
 Agency Contact: Harold Coburn (916) 263-6397

File# 2012-0109-03
CALIFORNIA HORSE RACING BOARD
 Penalties for Medication Violations

The California Horse Racing Board amended section 1843.3 of title 4 of the California Code of Regulations, Penalties for Medical Violations, to change the minimum allowable level for flunixin from 50 nanograms per milliliter of blood plasma or serum to 20 nanograms per milliliter of blood plasma or serum. In addition, the amendment provides for a penalty schedule for low level violations involving phenylbutazone by creating new Category “D” penalties for phenylbutazone at 2.1 ug/ml to 5.0 ug/ml. The amendment also adds new Category “D” penalties for drugs other than phenylbutazone.

Title 4
 California Code of Regulations
 AMEND: 1843.3
 Filed 02/14/2012
 Effective 03/15/2012
 Agency Contact: Harold Coburn (916) 263-6397

File# 2012-0202-01
CENTRAL VALLEY FLOOD PROTECTION BOARD

Title 23 Waters, Division 1, Central Valley Flood Protection Board

This rulemaking action is a re-submittal of OAL file number 2011-1213-05S, which was withdrawn from OAL review on January 27, 2012, by the Central Valley Flood Protection Board (Board). On October 28, 2011, the Board voted unanimously to adopt regulations under Title 23 that promote efficient administration of flood management by delegating various duties of the Board. Specifically, these new rules define encroachments that do not significantly affect the State Plan of Flood Control and authorize Board staff to consider these permit applications. The rules also provide authority for the Executive Officer to issue Cease and Desist Orders in certain situations. Further, enforcement actions that may be taken by the Board to obtain compliance with flood control laws and regulations are described.

Title 23
 California Code of Regulations
 ADOPT: 20, 21, 22, 23, 24, 25, 26, 27 AMEND: 4, 5, 5.1, 9, 10, 11, 12, 13, 14, 16, 17, 23 (re-numbered to 28), 103, 109, 110, Appendix A REPEAL: 20, 21, 22
 Filed 02/15/2012
 Effective 02/15/2012
 Agency Contact: Curt Taras (916) 709-0519

File# 2011-1223-03
DENTAL BOARD OF CALIFORNIA
 Consumer Protection Enforcement Initiative

This rulemaking action by the Dental Board of California amends title 16 of the California Code of Regulations by supplementing the statutory definition of "unprofessional conduct" and providing new procedures to evaluate a license applicant's competency and ability to safely practice.

Title 16
 California Code of Regulations
 ADOPT: 1018.05
 AMEND: 1020
 Filed 02/08/2012
 Effective 03/09/2012
 Agency Contact: Sarah Wallace (916) 263-2187

File# 2012-0103-03
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
 Premises Where Conditions Imposed

This change without regulatory effect amends section 66 of Title 4 of the California Code of Regulations. This change removes statutory language from the regulation as well as some language that is inconsistent with statute.

Title 4
 California Code of Regulations
 AMEND: 66
 Filed 02/08/2012
 Agency Contact: Susie Smith (916) 928-6821

File# 2012-0105-03
DEPARTMENT OF FOOD AND AGRICULTURE
 Oriental Fruit Fly Eradication Area

In September, 2011, six fruit flies were trapped in the Stockton area of San Joaquin County. The Oriental fruit fly is a destructive insect pest of innumerable commercial agricultural crops. Fruits (including nuts, dates, berries), many kinds of vegetables, and the fruiting bodies of many wild and ornamental plants are known to be hosts or possible hosts of the oriental fruit fly. Larval feeding reduces the interior of fruit to a rotten mass. Egg punctures admit decay organisms which cause tissue breakdown. Damaged fruit is generally unfit for human consumption. This unexpected occurrence of the Oriental fruit fly meets the national and international standards that mandate immediate intensive delimitation activities in the Stockton area of San Joaquin County.

Title 3
 California Code of Regulations
 AMEND: 3591.2(a)
 Filed 02/13/2012
 Effective 02/13/2012
 Agency Contact: Lindsay Rains (916) 654-1017

File# 2011-1230-02
DEPARTMENT OF INSURANCE
 Loss Ratios for Individual Health Insurance

This rulemaking action amends section 2222.12 of Title 10 of the California Code of Regulations to add, as a factor in determining the reasonableness, in relation to premiums, of hospital, medical or surgical policy benefits, the insurer's projected medical loss ratios in the individual market calculated using the method described in the federal interim final rule implementing the federal Patient Protection and Affordable Care Act.

Title 10
California Code of Regulations
AMEND: 2222.12
Filed 02/08/2012
Effective 02/08/2012
Agency Contact: Bruce Hinze (415) 538-4392

File# 2011-1230-01
DEPARTMENT OF INSURANCE
Policy Form Processing Cost Recovery Regulations

This rulemaking action by the Department of Insurance amends section 2202 of title 10 of the California Code of Regulations. This amendment adjusts fees the Insurance Commissioner charges insurance providers for processing, indexing, and maintaining copies of various documents, and also provides the Commissioner the flexibility to adjust a fee, when circumstances warrant, in a manner that is not necessarily uniform with fee adjustments in other filing classifications.

Title 10
California Code of Regulations
AMEND: 2202
Filed 02/13/2012
Effective 03/28/2012
Agency Contact:
Jennifer Chambers (415) 538-4145

File# 2012-0119-02
DEPARTMENT OF MOTOR VEHICLES
Zero Emission Vehicle Parking Decal

This Section 100 action repeals DMV's existing regulation governing the application for and issuance of a "Zero Emission Parking Decal". The mandate to issue such parking decals was repealed by the passage of AB 475 (Chap. 274, Stats. 2011).

Title 13
California Code of Regulations
REPEAL: 158.00
Filed 02/13/2012
Agency Contact: Randi Calkins (916) 657-8898

File# 2012-0113-02
DEPARTMENT OF TOXIC SUBSTANCES
CONTROL
Removal of Saccharin and Its Salts

This action removes saccharin and its salts from the lists of hazardous constituents and hazardous wastes in Title 22 of the California Code of Regulations.

Title 22
California Code of Regulations
AMEND: 66261.33, 66268.40
Filed 02/08/2012
Agency Contact: Krysia Von Burg (916) 324-2810

File# 2012-0130-01
EDUCATION AUDIT APPEALS PANEL
Supplement to Audits of K-12 LEAs — FY 2011-12

This regulatory action makes the annual revisions to the audit guide pursuant to Education Code section 14502.1. Section 14502.1(b) authorizes the use of the emergency process to adopt the guide by March 1 of each year. This enables accounting firms to prepare training materials and provide training to their field auditors prior to the commencement of auditing.

The revisions include authorized reductions in the required number of instructional days and expanded pertussis immunization requirements.

Title 5
California Code of Regulations
ADOPT: 19824.1, 19841, 19851.1, 19854.1
AMEND: 19816, 19816.1, 19824, 19850, 19851, 19854
Filed 02/09/2012
Effective 02/09/2012
Agency Contact: Carolyn Pirillo (916) 445-7745

File# 2012-0210-06
FAIR POLITICAL PRACTICES COMMISSION
Gift to Official Through Family Member

This action corrects a typographical error in California Code of Regulations, title 2, section 18943.

Title 2
California Code of Regulations
AMEND: 18943
Filed 02/13/2012
Effective 02/13/2012
Agency Contact:
Virginia Latteri-Lopez (916) 322-5660

File# 2011-1230-04
FISH AND GAME COMMISSION
Kellet's Whelk

This regulatory action establishes the method of take, the season for taking, and the total allowable catch for Kellet's Whelk, a large predatory gastropod commonly found in kelp forests and rocky reef habitat from central Baja California to Point Conception.

Title 14
California Code of Regulations
AMEND: 29.17, 127
Filed 02/13/2012
Effective 03/14/2012
Agency Contact: Jon Snellstrom (916) 654-9868

File# 2011-1228-04
 OCCUPATIONAL SAFETY AND HEALTH
 APPEALS BOARD
 Rules of Practice and Procedure

This action amends existing Occupational Safety and Health Appeals Board rules of practice and procedure governing the authority of administrative law judges, prehearing motions, motions concerning hearings, and the time and place of hearings and adopts a new regulation governing status conferences.

Title 8
 California Code of Regulations
 ADOPT: 374.2 AMEND: 350.1, 371, 371.1, 376
 Filed 02/08/2012
 Effective 03/09/2012
 Agency Contact: Kari Johnson (916) 274-5769

File# 2012-0120-04
 OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD
 Single-Rail Ladders

The Occupational Safety and Health Standards Board proposed this action to amend three sections in title 8 of the California Code of Regulations to make clear that the use of both portable and fixed single-rail ladders is prohibited.

Title 8
 California Code of Regulations
 AMEND: 1675, 3276, 3278
 Filed 02/08/2012
 Effective 03/09/2012
 Agency Contact: Marley Hart (916) 274-5721

File# 2012-0105-01
 OFFICE OF TOURISM
 Tourism Assessment Collection Procedures

Government Code sections 13995.65 through 13995.77 provide for the mailing and collection by the Office of Tourism (Office) of an assessment bill to assessed businesses. The Office amended sections 5350, 5353, and 5357.2 and adopted sections 5358.5 through 5358.11 of title 10 of the California Code of Regulations specifying the procedures for mailing the assessment bill, the consequences for not filing the assessment or failing to pay, and the appeal process.

Title 10
 California Code of Regulations
 ADOPT: 5358.5, 5358.6, 5358.7, 5358.8, 5358.9, 5358.10, 5358.11 AMEND: 5350, 5353, 5357.2
 Filed 02/08/2012
 Effective 03/09/2012
 Agency Contact: Terri Toohey (916) 768-5638

File# 2012-0103-01
 STATE TEACHERS RETIREMENT SYSTEM
 Internal Appeal

This regulatory action provides guidelines for a member, former member, participant, former participant, beneficiary, or other entity to exhaust administrative remedies prior to taking the matter to an administrative hearing when disputing how CalSTRS administers a benefit.

Title 5
 California Code of Regulations
 ADOPT: 27100, 27101, 27102, 27103
 Filed 02/09/2012
 Effective 03/10/2012
 Agency Contact:
 Jennifer L. Plescia (916) 414-1724

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN September 21, 2011 TO
 February 15, 2012**

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

Title 2
 02/13/12 AMEND: 18943
 01/31/12 ADOPT 260.1, 261.1 AMEND 258, 260, 262
 01/31/12 AMEND 640
 01/26/12 AMEND 37000
 01/23/12 ADOPT: 1880
 01/23/12 ADOPT: 18940.1, 18942.2, 18942.3 AMEND: 18940, 18940.2, 18941, 18942, 18942.1, 18943, 18944.1, 18944.2, 18944.3, 18945, 18945.1, 18945.2, 18946, 18946.1, 18946.2, 18946.3, 18946.4, 18946.5 REPEAL: 18941.1, 18943, 18945.3, 18946.5
 01/18/12 AMEND: Div. 8, Ch. 35, Sec. 52400
 01/10/12 AMEND: 18423, 18539, 18550
 01/05/12 ADOPT: 18404.2
 01/05/12 ADOPT: 18227.5, 18247.5 REPEAL: 18247.5
 12/28/11 AMEND: 1859.76
 12/21/11 AMEND: 1859.90.2, 1859.81
 12/07/11 ADOPT: 18316.6, 18361.11 AMEND: 18360, 18361, 18361.4

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 8-Z

11/22/11	AMEND: 559	09/30/11	AMEND: 12100, 12101, 12200.3, 12200.5, 12200.6, 12200.9, 12200.10B, 12200.14, 12202, 12205.1, 12218, 12218.7, 12218.8, 12220.3, 12220.5, 12220.6, 12220.14, 12222, 12225.1, 12233, 12235, 12238, 12300, 12301.1, 12309, 12350, 12354, 12358, 12359, 12362, 12400, 12404, 12463, 12464
11/08/11	ADOPT: 18421.31		
10/27/11	AMEND: 18404.1		
10/26/11	ADOPT: 18237		
10/18/11	AMEND: 1859.166.2		
10/17/11	AMEND: 25001		
10/12/11	AMEND: 59690		
10/05/11	ADOPT: 649.21		
09/27/11	ADOPT: 599.506(f) AMEND: 599.502(f)	09/28/11	ADOPT: 8035.5
09/21/11	AMEND: 1859.90.2		
Title 3		Title 5	
02/13/12	AMEND: 3591.2(a)	02/09/12	ADOPT: 19824.1, 19841, 19851.1, 19854.1 AMEND: 19816, 19816.1, 19824, 19850, 19851, 19854
02/06/12	AMEND: 3435(b)	02/09/12	ADOPT: 27100, 27101, 27102, 27103
02/02/12	AMEND: 3423(b)	01/10/12	AMEND: 9510, 9510.5, 9511, 9512, 9513, 9514, 9515, 9516, 9517, 9517.1, 9519, 9520, 9521, 9524, 9525, 18533, 18600
01/23/12	ADOPT: 588		
01/18/12	ADOPT: 3591.25	12/19/11	ADOPT: 30001.5
01/06/12	AMEND: 3591.2(a)	12/16/11	AMEND: 53309, 53310
12/29/11	AMEND: 3280	12/14/11	AMEND: 55150, 55151, 55154, 55155 REPEAL: 55152, 55153
12/20/11	AMEND: 3407(e)	11/16/11	ADOPT: 11968.5.1, 11968.5.2, 11968.5.3, 11968.5.4, 11968.5.5 AMEND: 11960, 11965, 11969 (renumbered 11968.1), 11969.1
12/05/11	AMEND: 1408.6	10/27/11	ADOPT: 4800, 4800.1, 4800.3, 4800.5, 4801, 4802, 4802.05, 4802.1, 4802.2, 4803, 4804, 4805, 4806, 4807, 4808
11/29/11	AMEND: 3591.15(a)	10/24/11	ADOPT: 11966.4, 11966.5, 11966.6, 11966.7 AMEND: 11967, 11967.5.1
11/14/11	AMEND: 3437(b)	10/18/11	ADOPT: 10120.1, 10121
11/10/11	AMEND: 6000, 6361, 6400, 6460, 6464, 6470, 6502, 6512, 6524, 6560, 6562, 6564, 6625, 6626, 6625, 6632, 6728, 6761, 6780	09/22/11	ADOPT: 80069.2 AMEND: 80070
11/10/11	AMEND: 3589(a)	Title 8	
10/26/11	AMEND: 1430.142	02/08/12	AMEND: 1675, 3276, 3278
10/19/11	AMEND: 3423(b)	02/08/12	ADOPT: 374.2 AMEND: 350.1, 371, 371.1, 376
10/12/11	AMEND: 3906	02/01/12	AMEND 1504, 1591, 1597
10/10/11	ADOPT: 3591.25	01/24/12	AMEND: 5155
10/10/11	AMEND: 3423(b)	01/19/12	ADOPT: 9708.1, 9708.2, 9708.3, 9708.4, 9708.5, 9708.6
09/29/11	AMEND: 3434(b)(8)	01/18/12	ADOPT: 1615.3 AMEND: 1532.1, 3361, 5042, 5044, 5045, 5047, 5049, 5144, 5191, 5198, 5209, 8355
09/28/11	AMEND: 3425(b)	01/05/12	AMEND: 4188
Title 4		12/29/11	AMEND: 3276, 3287
02/14/12	AMEND: 1844	12/29/11	ADOPT: 32802, 32804 AMEND: 32380, 32603, 32604
02/14/12	AMEND: 1843.3	12/27/11	AMEND: 343
02/08/12	AMEND: 66	12/13/11	ADOPT: 8351, 8356, 8376.1, 8378.1, 8387, 8391.1, 8391.2, 8391.4, 8391.5, 8391.6, 8397.6 AMEND: 5194.1, 8354,
02/03/12	AMEND: 5000, 5052		
12/30/11	ADOPT: 4000.1, 4000.2, 4000.3		
12/21/11	ADOPT: 12349		
12/09/11	ADOPT: 5205 AMEND: 5000, 5054, 5144, 5170, 5190, 5200, 5230, 5350, 5370 REPEAL: 5133		
12/07/11	AMEND: 1433		
12/05/11	AMEND: 10325(c)(8)		
11/28/11	AMEND: 1632		
11/07/11	AMEND: 8070, 8072, 8073, 8074		
11/03/11	AMEND: 10152, 10153, 10154, 10155, 10157, 10159, 10160, 10161, 10162 REPEAL: 10156, 10158, 10164		
10/04/11	AMEND: 1658		

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	8376, 8378, 8384, 8391, 8391.3, 8397.2, 8397.3, 8397.4, 8397.5	12/28/11	AMEND: 101.1
12/12/11	AMEND: 1541.1	12/27/11	AMEND: 4001, 4002, 4003, 4004, 4005, 4006, 4016, 4017, 4018, 4019, 4021, 4022, 4023, 4024, 4030, 4031, 4032, 4033, 4034, 4035, 4036, 4037, 4039, 4040, 4041, 4045, 4046, 4047, 4048, 4049, 4050, 4051, 4052, 4053, 4054, 4055, 4056, 4057, 4058, 4059, 4060, 4061, 4062, 4063, 4064, 4065, 4066, 4067, 4068, 4069, 4070, 4071, 4072, 4073, 4074, 4075, 4080, 4081, 4082, 4083, 4084, 4085, 4086, 4087, 4090, 4091, 4092, 4093, 4094, 4095, 4096, 4097, 4098, 4099, 4100, 4101, 4102, 4103, 4104, 4105, 4106, 4107, 4108, 4109, 4125, 4126, 4127, 4128, 4129, 4130, 4131, 4132, 4133, 4134, 4135, 4136, 4137, 4138, 4139, 4140, 4141, 4142, 4144, 4145, 4146, 4147, 4148, 4149, 4150, 4151, 4152, 4153, 5455, 5459, 5469, 5470, 5471, 5473, 5480, 5482, 5483, 5484, 5495, 5499 REPEAL: 4020, 4038, 4088, 4089, 4143, 5472, 5481, 5470, 5471
12/07/11	ADOPT: 16450, 16451, 16452, 16454, 16455 AMEND: 16423, 16433 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455		
11/07/11	AMEND: 6051		
10/27/11	ADOPT: 2320.10, 2940.10 AMEND: 1512, 3400		
10/17/11	AMEND: 230.1(a)		
10/17/11	ADOPT: 207.1 AMEND: 201, 202, 203, 207		
Title 9			
10/04/11	ADOPT: 7016.1, 7019.6, 7025.7, 7028.7, 7179.7 AMEND: 7098, 7179.1, 7181.1		
Title 10			
02/13/12	AMEND: 2202		
02/08/12	AMEND: 2222.12		
02/08/12	ADOPT: 5358.5, 5358.6, 5358.7, 5358.8, 5358.9, 5358.10, 5358.11 AMEND: 5350, 5353, 5357.2		
02/03/12	AMEND: 2699.6700, 2699.6709, 2699.6721, 2699.6725		
01/24/12	AMEND: 2548.1, 2548.2, 2548.3, 2548.4, 2548.5, 2548.6, 2548.7, 2548.8, 2548.9, 2548.10, 2548.11, 2548.12, 2548.13, 2548.14, 2548.15, 2548.16, 2548.17, 2548.18, 2548.19, 2548.20, 2548.21, 2548.22, 2548.23, 2548.24, 2548.25, 2548.26, 2548.27, 2548.28, 2548.29, 2548.30, 2548.31	12/15/11	AMEND: 101.2
01/11/12	AMEND: 260.204.9	12/08/11	ADOPT: 117.1
01/09/12	AMEND: 2699.6707	11/14/11	AMEND: 1008
12/19/11	AMEND: 2498.5	11/01/11	AMEND: 1009
12/19/11	AMEND: 2498.4.9	10/25/11	AMEND: 1005, 1007, 1008
12/19/11	AMEND: 2498.6	10/07/11	ADOPT: 999.24, 999.25, 999.26, 999.27, 999.28, 999.29 AMEND: 999.10, 999.11, 999.14, 999.16, 999.17, 999.19, 999.20, 999.21, 999.22
12/09/11	AMEND: 2698.302	10/06/11	AMEND: 30.14
12/09/11	AMEND: 2699.301	10/06/11	ADOPT: 30.16
11/21/11	ADOPT: 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596	09/28/11	AMEND: 1081
10/20/11	AMEND: 2222.12	09/28/11	AMEND: 1005
09/26/11	ADOPT: 2785	Title 13	
09/26/11	ADOPT: 2830	02/13/12	REPEAL: 158.00
09/26/11	ADOPT: 2725.5, 2960, 2961, 2962, 2963 AMEND: 2930	12/14/11	AMEND: 2025
09/22/11	AMEND: 2318.6, 2353.1	12/14/11	AMEND: 2449, 2449.1, 2449.3 (renumbered to 2449.2), 2775, 2775.1, 2775.2 REPEAL: 2449.2
09/22/11	AMEND: 2318.6, 2353.1, 2354	12/05/11	AMEND: 553.70
Title 11			
10/03/12	ADOPT: 999.24, 999.25, 999.26, 999.27, 999.28, 999.29 AMEND: 999.10, 999.11, 999.14, 999.16, 999.17, 999.19, 999.20, 999.21, 999.22	11/22/11	AMEND: 1956.8
		11/17/11	AMEND: 1233
		11/09/11	AMEND: 2027
		11/08/11	AMEND: 1
		10/07/11	ADOPT: 345.03, 345.75, 345.76, 345.77
		Title 13, 17	
		10/27/11	AMEND: 2299.2, 93118.2
		Title 14	
		02/13/12	AMEND: 29.17, 127
		02/08/12	AMEND: 1257

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01/31/12 AMEND 29.15
 01/26/12 ADOPT 18940, 18941, 18942, 18943, 18944, 18945, 18945.1, 18945.2, 18945.3, 18946, 18947, 18948
 01/25/12 AMEND: 18419
 01/23/12 ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8
 01/09/12 AMEND: 7.00, 7.50(b)(68)
 01/05/12 ADOPT: 749.7
 01/05/12 AMEND: 895.1, 898.1, 1037.3, 1090.17, 1092.18
 12/20/11 AMEND: 11900
 12/20/11 ADOPT: 4970.24.2 AMEND: 4970.00, 4970.01, 4970.03, 4970.04, 4970.05, 4970.06.1, 4970.07, 4970.07.2, 4970.08, 4970.10.1, 4970.10.2, 4970.10.3, 4970.10.4, 4970.11, 4970.13, 4970.15.1, 4970.15.2, 4970.19, 4970.19.1, 4970.23.1, 4970.23.2, 4970.24, 4970.25.2, 4970.25.3
 12/09/11 AMEND: 15062, 15075, 15094, Appendix D and Appendix E
 12/08/11 AMEND: 632
 12/07/11 AMEND: 870.17, 870.19
 11/22/11 AMEND: 791.7, 870.17
 11/17/11 AMEND: 163, 164
 11/15/11 AMEND: 700.4, 701, 705 REPEAL: 704
 10/05/11 AMEND: 913.4, 933.4, 953.4, 959.15 REPEAL: 939.15
 10/05/11 AMEND: 913.4, 933.4, 953.4, 959.15 REPEAL: 939.15
 10/04/11 AMEND: 29.15
 09/28/11 AMEND: 11900
 09/22/11 AMEND: 565, 565.4, 566, 566.1, 569, 570, 571, 572, 573, 576, 583, 593, 598.60, 599
 09/22/11 AMEND: 7.50(b)(1.5), 27.65, 29.80

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01/19/12 ADOPT: 3076.4, 3076.5 AMEND: 3076, 3076.1, 3076.2, 3076.3
 01/11/12 REPEAL: 3999.8
 01/05/12 AMEND: 3140
 12/22/11 AMEND: 3052, 3062
 12/20/11 AMEND: 3040.1, 3043, 3043.6, 3044, 3045.1
 12/13/11 ADOPT: 3504.1, 3504.2
 12/09/11 AMEND: 3000, 3006, 3170.1, 3172.1, 3173.2, 3315, 3323
 12/05/11 ADOPT: 1712.1, 1714.1, 1730.1, 1740.1, 1748.5 AMEND: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.1, 1747.5, 1748, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788 REPEAL: 1757

12/01/11 ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000
 11/14/11 AMEND: 3341.5, 3375.2, 3377.1
 11/10/11 ADOPT: 3359.1, 3359.2, 3359.3, 3359.4, 3359.5, 3359.6 AMEND: 3000
 10/25/11 ADOPT: 2240
 10/06/11 REPEAL: 3999.7
 09/27/11 ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323

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02/09/12 AMEND: 28 REPEAL: 30
 02/08/12 ADOPT: 1018.05 AMEND: 1020
 02/01/12 ADOPT 3340.16.4 AMEND 3306, 3340.1, 3340.10, 3340.15, 3340.16.5, 3340.17, 3340.22, 3340.22.1, 3340.23, 3340.28, 3340.29, 3340.30, 3340.31, 3340.50, 3351.1 3340.16.4 3306, 3340.1, 3340.10, 3340.15, 3340.16.5, 3340.17, 3340.22, 3340.22.1, 3340.23, 3340.28, 3340.29, 3340.30, 3340.31, 3340.50, 3351.1
 01/19/12 ADOPT: 1379.40, 1379.42, 1379.44, 1379.46, 1379.48, 1379.50, 1379.52, 1379.54, 1379.56, 1379.58, 1379.68, 1379.70, 1379.72, 1379.78
 01/17/12 ADOPT: 1707.6 AMEND: 1707.2
 01/11/12 AMEND: 109, 117, 121
 01/10/12 AMEND: 12, 12.5, 98 REPEAL: 9, 11.5
 01/10/12 AMEND: 2328.1
 01/06/12 ADOPT: 3340.38
 12/28/11 AMEND: 1399.157, 1399.160, 1399.160.3, 1399.160.6
 12/22/11 ADOPT: 601.6, 601.7, 601.8, 601.9, 601.10 AMEND: 600.1
 12/12/11 AMEND: 1361
 11/22/11 ADOPT: 858, 858.1, 858.2, 858.3, 858.4, 858.5, 858.6, 858.7, 858.8, 858.9
 11/16/11 AMEND: 950.1, 950.4, 950.5 REPEAL: 962.3, 962.4, 962.5, 962.6
 11/01/11 ADOPT: 3392.2.1, 3392.3.1, 3392.4, 3392.5.1, 3392.6.1 AMEND: 3340.1, 3340.16, 3340.16.5, 3340.41, 3392.1, 3392.2, 3392.3, 3392.5, 3392.6
 10/25/11 REPEAL: 929
 10/17/11 AMEND: 2300, 2302, 2303, 2304, 2311, 2315, 2320, 2321, 2322, 2324, 2326, 2326.1, 2327, 2328, 2328.1, 2329, 2330, 2331, 2332, 2336, 2337, 2338, 2339, 2340, 2351, 2370, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388
 10/12/11 ADOPT: 1070.6, 1070.7, 1070.8 AMEND: 1070, 1070.1, 1070.2, 1071 REPEAL: 1071.1

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10/10/11	AMEND: 2450, 2451	95977.2, 95978, 95979, 95980, 95980.1,
10/06/11	ADOPT: 1399.507.5, 1399.523.5, 1399.527.5 AMEND: 1399.503, 1399.523	95981, 95981.1, 95982, 95983, 95984, 95985, 95986, 95987, 95988, 95990, 95991, 95992, 95993, 95994, 95995, 96010, 96011, 96012, 96013, 96014, 96020, 96021, 96022
10/04/11	AMEND: 972	
09/29/11	AMEND: 1398.26.1	
09/27/11	ADOPT: 3394.40, 3394.41, 3394.42, 3394.43, 3394.44, 3394.45, 3394.46	12/12/11 ADOPT: 95312 AMEND: 95300, 95301, 95302, 95303, 95304, 95305, 95306, 95307, 95308, 95309, 95310, 95311
09/22/11	AMEND: 1202, 1203, 1204, 1205, 1208, 1208.1, 1210, 1211, 1213, 1214, 1221, 1223, 1223.1, 1225, 1229, 1230, 1234, 1240, 1241, 1243, 1244, 1245, 1246, 1253, 1253.5, 1253.6, 1254, 1256, 1258.3, 1267, 1268, 1269, 1271 REPEAL: 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291	11/17/11 REPEAL: 901 11/10/11 AMEND: 94508, 94509, 94510, 94512, 94515
09/22/11	AMEND: 109, 121	09/27/11 AMEND: 2505 09/23/11 AMEND: 6540 09/21/11 AMEND: 56034
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02/15/12	AMEND: 95802, 95833, 95841.1, 95852, 95852.1.1, 95852.2, 95870, 95891, 95892, 95914, 95920, 95971, 95974, 95975, 95977.1, 95979, 95980, 95981, 95981.1, 95985, 95986, 95987, 95990, 95993, 95994, 96021 REPEAL: 95893, 95943	Title 18 02/07/12 AMEND: 1807, 1828 01/11/12 AMEND: 1616 01/09/12 AMEND: 1532, 1533.1, 1534, 1535 12/27/11 AMEND: 1570 10/10/11 AMEND: 3020, 3301, 4500, 4504, 4507, 4508, 4509, 4600, 4609, 4700
01/26/12	AMEND 6540	09/26/11 AMEND: 19591 09/26/11 AMEND: 1533.2, 1598 09/22/11 ADOPT: 25128.5
01/17/12	AMEND: 50602, 50604, 50607, 50612, 54326	Title 22 02/08/12 AMEND: 66261.33, 66268.40 02/06/12 AMEND: 80001, 80075, 83000, 83001, 84001, 84061, 86001, 88001
12/27/11	ADOPT: 54311 AMEND: 54302, 54310, 54314, 54320, 54326, 54332, 54370	01/31/12 ADOPT 126010, 126020, 126030, 126040, 126042, 126050, 126055, 126060, 126070, 126072, 126074, 126076, 126090 126010, 126020, 126030, 126040, 126042, 126050, 126055, 126060, 126070, 126072, 126074, 126076, 126090
12/15/11	AMEND: 6020, 6035, 6051, 6065, 6070, 6075	01/26/12 AMEND 50273 12/28/11 AMEND: 97232, 97240, 97247 12/27/11 AMEND: 51516.1 12/20/11 ADOPT: 69401, 69401.1, 69401.2, 69402, 69402.1, 69402.2, 69402.3, 69402.4, 69402.5, 69402.6, 69403, 69403.1, 69403.2, 69403.3, 69403.4, 69403.5, 69403.6, 69403.7, 69403.8, 69403.9, 69403.10, 69403.11, 69403.12, 69403.13, 69403.14, 69403.15, 69403.16, 69403.17, 69404, 69404.1, 69404.2, 69404.3, 69404.4, 69404.5, 69404.6, 69404.7, 69404.8, 69404.9, 69404.10, 69405, 69405.1, 69405.2, 69405.3, 69405.4, 69405.5, 69405.6, 69405.7, 69405.8, 69406, 69406.1,
12/14/11	ADOPT: 95116, 95117, 95118, 95119, 95120, 95121, 95122, 95123, 95129, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157 AMEND: 95100, 95101, 95102, 95103, 95104, 95105, 95106, 95107, 95108, 95109, 95110, 95111, 95112, 95113, 95114, 95115, 95130, 95131, 95132, 95133 REPEAL: 95125	
12/13/11	ADOPT: 95801, 95802, 95810, 95811, 95812, 95813, 95814, 95820, 95821, 95830, 95831, 95832, 95833, 95834, 95840, 95841, 95841.1, 95850, 95851, 95852, 95852.1, 95852.1.1, 95852.2, 95853, 95854, 95855, 95856, 95857, 95858, 95870, 95890, 95891, 95892, 95910, 95911, 95912, 95913, 95914, 95920, 95921, 95922, 95940, 95941, 95942, 95970, 95971, 95972, 95973, 95974, 95975, 95976, 95977, 95977.1,	

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	69406.2, 69406.3, 69407, 69407.1, 69407.2		AMEND: 4, 5, 5.1, 9, 10, 11, 12, 13, 14, 16, 17, 23 (re-numbered to 28), 103, 109, 110, Appendix A
12/06/11	AMEND: 40741		REPEAL: 20, 21, 22
11/21/11	AMEND: 66260.11, 66260.12, 66262.53, 66262.56, 66263.32, 66264.12, 66264.71, 66264.72, 66265.12, 66265.71, 66265.72	12/29/11	ADOPT: 862
		12/20/11	ADOPT: 3929.8
09/29/11	AMEND: 72516, 73518	12/19/11	ADOPT: 3939.40
09/22/11	ADOPT: 64419, 64420, 64420.1, 64420.2, 64420.3, 64420.4, 64420.5, 64420.6, 64420.7 AMEND: 64418, 64418.1, 64418.2, 64418.7	11/03/11	ADOPT: 3949.8
		11/01/11	AMEND: 3937
		10/20/11	AMEND: 1062, 1064, 1066
		10/19/11	ADOPT: 2200.7 AMEND: 2200, 2200.6
Title 22/MPP		Title 25	
11/10/11	AMEND: 35000, 35001, 35325, 35326, 35329, 35331, 35333, 35334, 35337, 35339, 35341, 35343, 35344, 35345, 35351, 35352, 35352.1, 35352.2, 45-801, 45-802, 45-803, 45-804, 45-805, 45-806, 45-807 REPEAL: 35327, 35347, 35352.3	02/06/12	ADOPT: 597, 597.1, 597.2, 597.3, 597.4
09/29/11	AMEND: 86500, 86501	02/02/12	ADOPT: 3968
Title 23		Title 27	
02/15/12	ADOPT: 20, 21, 22, 23, 24, 25, 26, 27	01/25/12	AMEND: 27001
		01/09/12	AMEND: 25705
		11/28/11	AMEND: 25903(c)
		10/12/11	AMEND: 25703(a)(6)
		09/26/11	AMEND: 25805
		Title MPP	
		10/31/11	AMEND: 31-502.42
		10/24/11	AMEND: 44-111.61