



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. FAIR POLITICAL PRACTICES
COMMISSION**

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

CONFLICT OF INTEREST CODES

ADOPTION

STATE AGENCY: Citizens Redistricting Commission

A written comment period has been established commencing on **March 15, 2013** and closing on **April 29, 2013**. Written comments should be directed to the Fair Political Practices Commission, Attention Adrienne Tackley, 428 J Street, Suite 620, Sacramento, California 95814.

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

The Executive Director of the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **April 29, 2013**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

**EFFECT ON HOUSING COSTS
AND BUSINESSES**

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Adrienne Tackley, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. PUBLIC EMPLOYEES' RETIREMENT SYSTEM

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below in the Informative Digest after considering public comments, objections, or recommendations regarding the proposed regulatory action.

I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes to rename Article 6 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR) to "2013 Public Employees' Pension Reform Implementation," and proposes the addition of sections 579, 579.1, 579.2, 579.4, 579.5, and 579.24 under the aforementioned Article 6 of the CCR. By proposing these regulations in this Article, CalPERS seeks to implement, administer, interpret, and make certain the provisions contained within Assembly Bill (AB) 340 (Stats. 2012, Ch. 296) known as the California Public Employees' Pension Reform Act (PEPRA) of 2013 and the related pension reform changes to the Public Employees' Retirement Law (PERL) and the Legislators' Retirement Law (LRL).

II. WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period has been established commencing on **March 15, 2013** and closing on **April 29, 2013** at 5:00 p.m. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via fax at (916) 795-4607; E-mail at PEPRA_Regulations@CalPERS.CA.GOV or mailed to the following address:

Christina Nutley, Regulations Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702
Phone: (916) 795-2397

III. PUBLIC HEARING

Comments on the proposed regulatory action will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the CalPERS Board of Administration, on the following date at the location identified below:

May 14, 2013
10:00 a.m.
California Public Employees' Retirement System
Robert F. Carlson Auditorium
Lincoln Plaza North
400 P Street
Sacramento, CA 95811

IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or visual impairments upon advance request to the CalPERS Regulations Coordinator.

V. AUTHORITY AND REFERENCE

California Government Code section 7522.02 provides that the PEPRA provisions (Government Code sections 7522 through 7522.74.) shall apply to all specified public retirement systems, including CalPERS. Specifically, Government Code section 7522.02(a)(1) provides in part that, "Notwithstanding any other law, except as provided in this article, on and after January 1, 2013, this article shall apply to all state and local public retirement systems and to their participating employers, including the Public Employees' Retirement System."

Additional pension reform changes undertaken by AB 340 to the PERL (Government Code sections 20281.5, 20516, 20516.5, 20677.96, 20683.2, 20791, 21076, 21076.5, and 21400) and the LRL (Government Code sections 9355.4 through 9355.45) must be administered by the Board pursuant to existing provisions in the PERL (Government Code sections 20000 et seq.) and in the LRL (Government Code sections 9350 et seq.). The Board's authority to add the proposed regulations (Sections 579 through 579.24) to the CCR derives from the Board's plenary authority and fiduciary responsibility over the assets of the public retirement system and exclusive responsibility to administer the System in a manner that will assure prompt delivery of benefits and related services to the members and their beneficiaries, pursuant to the California Constitution (Section 17 of Article XVI) and in accordance with the PERL (California Government Code Title 2, Division 5, Part 3, sections 20120-20124). The proposed regulations implement, interpret, and make specific several provisions of the PEPRA.

VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

As a result of the pension reform legislation that became effective January 1, 2013, CalPERS proposes six regulations that interpret and implement certain provisions in the pension reform statutes. CalPERS has received many questions related to the pension reform legislation which highlighted the need to pursue regulations for certain terms and phrases and to establish formal procedures for certain processes related to pension reform. The proposed regulations in this regulatory action establish the scope and authority for CalPERS regulations, and interpret key phrases and certain processes that CalPERS finds necessary for the implementation of the new pension reform laws. These proposed regulations will provide clarity and ensure uniformity in the application of key pension reform statutes for CalPERS, its members, and CalPERS-covered employers. The proposed regulations will also ensure that individuals are properly enrolled into CalPERS membership from the beginning of their employment so that proper contributions are collected from employees and their employers. The proposed regulations will also help make sure the correct level of benefits will be provided to these members at the time they retire. Additionally, the proposed regulations make clear the various processes that will be used by CalPERS to implement the pension reform laws which should make CalPERS administration of these new statutes more efficient.

These proposed regulations are not inconsistent or incompatible with existing law or existing state regulations. There are no other comparable existing State regulations that address the topics at issue here and therefore pursuant to Government Code section 11346.5, subdivision (a), paragraph (3)(D) there are no other comparable existing regulations.

The amendment to Article 6, to rename it to “2013 Public Employees’ Pension Reform Implementation” enables CalPERS to promulgate a set of regulations that are specific to pension reform and place all pension reform regulations together within one Article, so that it will be easier for members, employers, and CalPERS staff to locate all regulations related to the pension reform legislation in one place within the CalPERS regulations.

The proposed addition of section 579 to the CCR provides the scope of the authority for the proposed regulations added to this Article. This proposed regulation establishes that these regulations (and additional regulations to be proposed at a later time that will be housed within this Article) interpret and implement the PEPR (Government Code sections 7522 through 7522.74) and related pension reform statutes in Government Code

sections 9355.4 through 9355.45 (LRS provisions), and Government Code sections 20281.5, 20516, 20516.5, 20677.96, 20683.2, 20791, 21076, 21076.5, and 21400 (PERL provisions).

The proposed addition of section 579.1 to the CCR clarifies the terms “new member” and “classic member” as those terms will be used by CalPERS to implement pension reform and to administer the System. CalPERS’ use of the term “new member” is synonymous with the definition of “new member” in Government Code section 7522.04(f). In order to distinguish between a “new member” and a member not subject to the provisions of PEPR, CalPERS will use the term “classic member” to identify those members who do not meet the definition of a “new member.” This proposed regulation also clarifies that the proposed regulations contained in Article 6 apply exclusively to new members unless expressly stated otherwise.

The proposed addition of section 579.2 to the CCR seeks to implement CalPERS’ interpretation of the phrase “active member” as that phrase is used in Government Code section 7522.04(f). This regulation will likely be amended in the future to include other necessary pension reform definitions. The term “active member,” as used in Government Code section 7522.04(f)(3), shall mean a member, as defined by Government Code section 20370, who is employed by a CalPERS-covered employer.

The proposed addition of section 579.4 to the CCR seeks to implement CalPERS’ interpretation of the phrase “break in service” as that phrase is used in Government Code section 7522.04(f). Government Code section 7522.02 establishes to whom PEPR applies and specifically provides that the newly-described benefit plan shall apply to public employees who are “new members” (as defined in Section 7522.04(f)). The Section 7522.04(f) definition of “new members” includes a reference to a “break in service” as a part of that definition. The proposed regulation defines “break in service” to mean a permanent separation from service and clarifies that separations that are temporary in nature and result in absences from employment, such as leaves of absence or maternity/paternity leave as provided in Government Code sections 20990 through 21013, do not constitute a “break in service.”

The proposed addition of section 579.5 to the CCR seeks to implement CalPERS’ interpretation of the meaning of the phrase “similarly situated” (as used in Government Code section 7522.30(c)) for the purpose of determining the member contribution rate for “new members.” Section 7522.30 sets the contribution rates for certain new members (those employed by public agencies, school employers, California State University, and the judicial branch) as the greater of either 50 percent (50%) of the normal cost rate or the contribu-

tion rate established for similarly situated employees. The proposed regulation defines the phrase “similarly situated” to mean members with the same retirement benefit formula and who share similarities in job duties, work location, collective bargaining unit, or other logical work–related characteristics.

The proposed addition of section 579.24 to the CCR seeks to clarify the process that will be used by CalPERS where a member has accrued service credit both as a “new member” and as a “classic member.” The calculated final compensation amount for each period of service may differ because different laws apply to each type of service. Pensionable compensation for a new member may be limited and may not include all of the compensation amounts that can be used to determine final compensation for a classic member under the existing PERL provisions. In those instances where members have earned service as both a “classic member” and as a “new member,” CalPERS will determine two final compensation amounts. The first final compensation amount will be determined for the service earned as a “classic member,” using the statutes applicable to classic members, and the second final compensation amount will be determined for the service earned as a “new member” using the pension reform statutes. Those two final compensation amounts will then be used to calculate the member’s retirement benefit allowance.

VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to CalPERS–covered employers and CalPERS members.

VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose mandates on local agencies and school districts.
- B. **COSTS OR SAVINGS TO ANY STATE AGENCY:** State agencies may incur minimal costs to implement internal processes in support of these proposed regulations. However, these costs result from the underlying pension reform legislation and not from the proposed regulations themselves.

- C. **COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** Though the proposed regulatory action may result in minimal costs associated with complying with the proposed regulations to local agencies or school districts that participate in CalPERS, the proposed regulatory action does not result in costs or savings for any local agency program or school district that would qualify for reimbursement under Government Code section 17500, et seq.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose nondiscretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action will not result in costs or savings in federal funding to the State of California.
- F. **ADVERSE ECONOMIC IMPACT:** The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses including the ability of business in California to compete with businesses in other states. CalPERS relied upon the plain text of the statutes and the proposed regulations to make this determination.
- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action because the pension reform laws and the proposed regulatory action only apply to CalPERS, CalPERS–covered employers and CalPERS members.
- H. **RESULTS OF THE ECONOMIC IMPACT ANALYSIS:** The proposed regulatory action will not: (1) eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; (3) affect the expansion of businesses currently doing business within California; or (4) affect the health and welfare of California residents, worker safety, or the state’s environment.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action has no effect on housing costs.

IX. CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for

which the regulatory action is proposed, or would be as effective as, and less burdensome to, affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned public hearing or during the written comment period.

X. CONTACT PERSON

Please direct inquiries concerning the substance of the proposed regulatory action to:

Renee Ostrander, PEPRALegislative Coordinator
California Public Employees' Retirement System
P.O. Box 942715
Sacramento, CA 94229-2715
Telephone: (916) 795-7373
Fax: (916) 795-2330
E-Mail: Renee_Ostrander@calpers.ca.gov

Please direct requests concerning the processing of this regulatory action to Christina Nutley, Regulations Coordinator, at the address shown above in Section II.

XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown in section II. To date, the file consists of this Notice, the proposed text of the regulations, the Initial Statement of Reasons (ISOR), and the Economic Impact Assessment. A copy of the proposed text, the ISOR, and the Economic Impact Assessment is available at no charge upon telephone or written request to the Regulations Coordinator. The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Christina Nutley, Regulations Coordinator, at the address shown above in Section II.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' website at www.calpers.ca.gov.

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed text of the regulations after the public comment period closes. If the Board modifies its regulatory action, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the

date on which the Board adopts, amends, or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed as to the outcome of this regulatory action.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid Interior Quarantine as an emergency action which was effective on November 15, 2012. 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 May 14, 2013.

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 Lindsay.rains@cdfa.ca.gov. The written comment period closes at 5:00 p.m. on April 29, 2013. 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
lindsay.rains@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 (FAC Section 5321).

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

Anticipated Benefits from This Regulatory Action

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

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

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

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

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

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

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

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

FAC Section 401.5 states, "the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state." The amendment of this regulation is preventing the artificial spread of ACP to uninfested areas of the State. Huanglongbing (HLB) is generally distributed in Florida due to ACP being generally distributed there. The University of Florida IFAS Extension calculated and compared the impact of having and not having HLB present in Florida and concluded HLB had a total impact of \$3.64 billion and eliminated seven percent of the total Florida workforce. The overall California economy benefits by the amendment of this regulation which is intended to prevent ACP from becoming generally distributed in California and resulting in a similar effect on our economy as that in Florida. This is now critical as HLB has been introduced into California.

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

The Department is the only agency which can implement plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

AMENDED TEXT

This proposed emergency action expanded the quarantine area for ACP by approximately 3,978 square miles in San Diego, Riverside and San Bernardino counties. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against ACP within these additional areas. The total area which would be under regulation is now approximately 26,125 square miles.

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 Department is not aware of any costs a representative person or business would incur in reasonable compliance with the proposed action.

Small Business Determination

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

Results of the Economic Impact Analysis

Amendment of these regulations will not:

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

Significant effect on housing costs: None.

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to amend Section 3435(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the 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, Room 210, Sacramento, California 95814, (916) 654–1017, FAX (916) 654–1018, E-mail: Lindsay.rains@cdfa.ca.gov. In his absence, you may contact Stephen Brown at (916) 654–1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (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 8. WORKERS' COMPENSATION
APPEALS BOARD**

**NOTICE OF PROPOSED RULEMAKING
RULES OF PRACTICE AND PROCEDURE**

**TITLE 8, CALIFORNIA CODE OF
REGULATIONS, SECTIONS 10300 THROUGH
10999**

NOTICE IS HEREBY GIVEN that the Workers' Compensation Appeals Board (WCAB) proposes to amend its Rules of Practice and Procedure (Rules),¹ as described below, after considering all comments, objections, and recommendations regarding the proposed action. *Although equal weight will be accorded to oral and written comments, the WCAB prefers written comments to oral testimony and prefers written comments submitted by e-mail. If written comments are timely submitted, it is not necessary to present oral testimony at the public hearing.*

The WCAB's proposed amendments to its Rules are being initiated pursuant to its rulemaking power under Labor Code sections 5307(a), 133, 5309 and 5708,² subject to the procedural requirements of section 5307.4. This Notice of Proposed Rulemaking and the accompanying Initial Statement of Reasons have been prepared to comply with the procedural requirements of section 5307.4 and for the convenience of the regulated public to assist it in analyzing and commenting on this largely non-APA rulemaking process.³

PUBLIC HEARING

The WCAB will hold a public hearing starting at 10:00 a.m. on Tuesday, April 16, 2013, in the Santa Barbara Room, Basement Level, of the Hiram Johnson State Office Building located at 455 Golden Gate Ave-

nue, San Francisco, California. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action. Public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation. To provide everyone with an opportunity to speak, public testimony will be limited to 10 minutes per speaker and should be specific to the proposed regulations. Testimony which would exceed 10 minutes may be submitted in writing. If public comment concludes before the Noon recess, no afternoon session will be held.

The state office building and its hearing rooms are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodations to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator, Kathleen Estrada, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

The WCAB requests but does not require that persons who make oral comments at the hearing also submit a written copy of their comments at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representatives, may submit written comments to the WCAB relevant to the proposed rulemaking. The written comment period closes at **5:00 p.m. on Tuesday, April 15, 2013**. The WCAB will consider only comments it has *received* by that time. The address for submission of comments by e-mail is WCABRules@dir.ca.gov. The address for submission of comments by mail is: Neil P. Sullivan, Assistant Secretary and Deputy Commissioner, Workers' Compensation Appeals Board, P.O. Box 429459, San Francisco, CA 94142-9459. The address for submission of comments by delivery service or personal delivery is: Neil P. Sullivan, Assistant Secretary and Deputy Commissioner, Workers' Compensation Appeals Board, 455 Golden Gate Avenue, Ninth Floor, San Francisco, CA 94102. Comments also may be submitted by facsimile (Fax) at 1-415-703-4549.

AUTHORITY AND REFERENCE

Labor Code sections 5307(a), 133, 5309 and 5708, authorize the WCAB to adopt the proposed regulations. The proposed regulations implement, interpret and make specific various sections of the Labor Code.

¹ See Cal. Code Regs., Title 8, Chapter 4.5, Subchapter 1.9, section 10250, and Subchapter 2, section 10300 et seq.

² All further statutory references are to the Labor Code unless otherwise specified.

³ Under Government Code section 11351, the WCAB is not subject to Article 5 (Gov. Code, § 11346 et seq.), Article 6 (*id.* § 11349 et seq.), Article 7 (*id.* § 11349.7 et seq.), or Article 8 (*id.* § 11350 et seq.) of the rulemaking provisions of the Administrative Procedure Act (APA), with the sole exception that section 11346.4(a)(5) [publication in the California Regulatory Notice Register] does apply to the WCAB.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The WCAB has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

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: None.

Other Nondiscretionary Costs or Savings to Local Agencies: None.

Cost or Savings to Any State Agency or in Federal Funding to the State: There may be some savings to the Division of Workers' Compensation of the Department of Industrial Relations.

Significant Statewide, Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete With Businesses in Other States: None.

Effect on Small Business: Small businesses that file lien claims with the WCAB may experience slight reductions in costs due to the elimination of the filing of amended liens and the filing of documentation in support of liens. Otherwise, the proposed regulatory action involves changes in the procedures for the adjudication of lien claims that do not impose significant financial or economic burdens on the regulated small businesses.

Cost Impacts on Representative Private Persons or Businesses: None.

Other Impacts on Jobs and Businesses: None.

Effect on Housing Costs: None.

The adoption of these regulations is not expected to create or eliminate jobs or businesses in the State of California or reduce or expand businesses currently doing business in the State of California.

CONSIDERATION OF ALTERNATIVES

Under Government Code section 11351, the WCAB is *not* subject to the provisions of Government Code section 11346.5(a)(13). Nevertheless, the WCAB invites interested persons to present statements or arguments at the scheduled hearing or during the written comment period regarding reasonable alternatives that would be more effective in carrying out the purpose of this rulemaking, or would be as effective and less burdensome to the affected private persons, than the proposed action of this rulemaking.

PRE-NOTICE PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Under Government Code section 11351, the WCAB is not subject to the provisions of Government Code section 11346.45 relating to pre-notice public review and comment of contemplated amendments to its Rules. Nevertheless, the WCAB voluntarily conducted pre-notice public discussions on its web forum from Friday, December 21, 2011, to and including Wednesday, January 9, 2012. The pre-notice public comments may be viewed at http://www.dir.ca.gov/WCAB/ForumDocs/WCAB_ForumDec2012.htm.

CONTACT PERSONS

Nonsubstantive inquiries concerning this rulemaking action, such as requests to be added to the e-mail and/or mail distribution list(s) or requests for copies of rulemaking documents (e.g., the proposed regulations, the Initial Statement of Reasons), may be directed to: Annette Gabrielli, Regulations Coordinator, Workers' Compensation Appeals Board, P.O. Box 429459, San Francisco, CA 94142-9459, E-mail: WCABRules@dir.ca.gov, Phone: (415) 703-4580.

The contact person for substantive inquiries is: Neil P. Sullivan, Assistant Secretary and Deputy Commissioner, Workers' Compensation Appeals Board, P.O. Box 429459, San Francisco, CA 94142-9459, E-mail: WCABRules@dir.ca.gov, Phone: (415) 703-4554. Deputy Commissioner Sullivan is also the backup contact person for non-substantive inquiries.

Note: In the event that Deputy Commissioner Sullivan is unavailable, substantive inquiries should be directed to Rick Dietrich, Secretary and Deputy Commissioner at the same address, email address and telephone number.

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

Throughout the rulemaking process, the WCAB will have its entire rulemaking file available for inspection and copying at its office at 455 Golden Gate Avenue, 9th Floor, San Francisco, CA 94102, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday (excluding holidays). In addition, the above-cited materials may be accessed on the internet at www.dir.ca.gov/wcab/WCABPropRegsApr2013.htm. As of the date of this Notice, the rulemaking file consists of this Notice, the Initial Statement of Reasons, the proposed text of

the regulations, and the Form 399, together with the pre-notice tentative proposed regulations posted on the WCAB's web forum and the timely comments the WCAB received in response.

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, and the text of the proposed regulations will automatically be sent to those interested persons on the mailing list of the WCAB, and to all persons who have requested notice of hearing as required by Labor Code Section 5307.4.

If adopted, the regulations with any final amendments will appear in the California Code of Regulations at Title 8, Chapter 4.5, Subchapter 2, commencing with Section 10300, with the exception that the amendments to Section 10250 will appear in Subchapter 1.9. The text of the final regulations also may be available through the website of the Office of Administrative Law at www.ccr.oal.ca.gov.

TITLE 14. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

Title 14: Natural Resources
Division 7: Department of Resources Recycling and Recovery
Chapter 9: Planning Guidelines and Procedures for Preparing, Revising, and Amending Countywide or Regional Integrated Waste Management Plans
Article 6.3: Household Hazardous Waste Elements Sections: 18751.2–18751.2.3

The California Department of Resources Recycling and Recovery (Department) proposes to amend California Code of Regulations, Title 14, Division 7, Chapter 9, Article 6.3, commencing with section 18751.2. The proposed regulation is intended to update and streamline the household hazardous waste collection reporting process done by local governments through the CalRecycle Form 303.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulation to the Department. **The written comment period for this rulemaking closes at 4:00 p.m. on April 29, 2013.** The Department will also accept written comments during the public hearing described below. Please submit your written comments to:

Emily Wang
Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812–4025
FAX: (916) 319–7628
e-mail: form303@CalRecycle.ca.gov

PUBLIC HEARING

A public hearing to receive public comments has been scheduled for May 1, 2013. The hearing will be held at the

Joe Serna Jr., Cal EPA Building
Sierra Hearing Room
1001 I Street, 2nd Floor
Sacramento, CA 95814

The hearing will begin at **9:00 a.m. on May 1, 2013**, and will conclude after all testimony is given. CalRecycle requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheel chair accessible. If you have any questions, please contact form303@calrecycle.ca.gov.

INFORMATIVE DIGEST

The California Integrated Waste Management Act (Act), Public Resources Code (PRC) §40000 et seq., gives the Department authority to provide for the protection of public health, safety, and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC §40502 requires the Department to adopt rules and regulations to implement the Act.

The proposed new regulations cover CalRecycle's responsibilities for the development and maintenance of a database of all household hazardous waste collection events, facilities, and programs within the state (Public Resources Code (PRC) §47203). This rulemaking provides clarifications and updates to the existing regulations and has sections on the following topics: definitions; Form 303 submittals; and material collection and disposition.

More specifically, the subject regulation covers:

1. Definitions: household hazardous waste (HHW), permanent household hazardous waste collection facility, destructive incineration, fuel incineration, landfill, neutralization, recycled, reused, stabilization, and stewardship program.
2. Standard outline to use for submitting reports that includes the following topics:

- a. Contact Information
 - b. Program information
 - c. Description of which reporting agencies are responsible for submitting reports
3. Addition of “stewardship organization” as a disposition method.

Staff have met with stakeholders at Household Hazardous Waste Information Exchange meetings to share and accept comments on the informal draft regulatory text. Approximately 70 people participated in the workshops in person. Comments from the public were incorporated into the “Proposed Regulation for Form 303 Household Hazardous Waste Collection Report”.

Policy Statement Overview

Per PRC §47203, the Department has the responsibility to develop and maintain a database of all HHW collection events, facilities, and programs within the state. As such, CalRecycle, jointly with the Department of Toxic Substances Control (DTSC) has created the Form 303 Household Hazardous Waste Report. All public agencies that are responsible for HHW management are required to submit this report to the state annually by October 1. CalRecycle subsequently compiles and posts this information on its public website. DTSC provides regulatory assistance to public agencies when submitting the reports, and helps to ensure that all agencies have submitted them.

Anticipated Benefits from this Regulatory Action/Determination of Inconsistency or Incompatibility

The proposed regulation intends to provide for the protection of public health, safety, and the environment through the development and maintenance of a database of all household hazardous waste collection events, facilities and programs within the state. This database benefits waste prevention, waste diversion, and safe processing and disposal throughout the state. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

PLAIN ENGLISH REQUIREMENTS

Department staff prepared the proposed regulation pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulation is considered non-technical and is written to be easily understood by those parties that will use them.

AUTHORITY AND REFERENCES

Public Resources Code Sections 40502, 42970, 42972 through 42979, and 47203, Health and Safety Code Section 25218.1, and Government Code Section 6253 provide authority for this regulation. The purpose of the proposed actions is to implement, clarify, and update the regulations regarding the Form 303 Household Hazardous Waste Collection Report. The following is a list of references cited in this proposed regulation: Public Resources Code: 41500, 41510, 41750, and 47103; Health and Safety Code: 25218.10; Code of Federal Regulations, Title 49: 172.101.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

FINDINGS ON NECESSITY OF REPORTS

Department staff found that the requirement for specific reports is necessary for the health, safety, and welfare of the people of the state because it will help to ensure that the law applies equally to covered entities.

MANDATE ON STATE AGENCIES, LOCAL AGENCIES, OR SCHOOL DISTRICTS

Department staff have determined that the proposed regulations will result in no costs to school districts, and no costs to any school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, or other non-discretionary costs or savings on school districts, and no costs or savings in federal funding to the state. Department staff estimate that there will be a statewide cost savings to local agencies of about \$1,500–\$3,000 annually, due to reduced personnel hours that will result from the proposed changes to the reporting requirements. Staff also estimate that there will be a cost savings of about \$3,000–\$7,000 to state agencies, due to reduced personnel hours that will result from the proposed changes to the reporting requirements.

EFFECT ON HOUSING COSTS

Department staff made a determination that the proposed regulation will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

Department staff made an initial determination that the proposed regulation will not have a significant state-

wide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

Department staff made an initial determination that the proposed regulation will not have an effect on small businesses because they will not impose any new requirements on small businesses.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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. Department staff has determined that the adoption of the proposed regulation will not have a cost impact on private persons or businesses, because the impacts of the proposed regulation already exist in current law and regulation. The proposed regulation clarifies existing law and imposes no new adverse impacts. This is not a "major regulation" per Section 11342.548 of the Government Code.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Effect on Creation or Elimination of Jobs, Existing or new Business in the State of California

Department staff determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the state of California; 2) the creation of new businesses or the elimination of existing businesses within California; or 3) the expansion of businesses currently doing business with the state.

Benefits to the Health and Welfare of California Residents, Worker Safety, and the Environment

As stated under the Informative Digest above, the proposed regulation intends to provide for the protection of public health, safety, and the environment through the development and maintenance of a database of all household hazardous waste collection events, facilities and programs within the state. This database benefits waste prevention, waste diversion, and safe processing and disposal throughout the state.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of

the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

CONTACT PERSON

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

Emily Wang
Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
PHONE: (916) 322-2888
FAX: (916) 319-7628
e-mail: form303@calrecycle.ca.gov

Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Tracey Harper
Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
PHONE: (916) 341-6531
FAX: (916) 319-7379
e-mail: form303@calrecycle.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Department will have the entire rulemaking file, and all information that provides the basis for the proposed regulation, available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Emily Wang at the address or email address listed above. For more timely access to the proposed text of the regulation, and in the interest of waste prevention, interested parties are encouraged to access the Depart-

ment's Internet webpage at <http://www.calrecycle.ca.gov/laws/Rulemaking/HHWForm303/default.htm>. Additionally, the Final Statement of Reasons will be available at the above listed Internet address or you may contact the persons named above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department may adopt the proposed regulation substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the Department adopts the regulation as revised. Requests for the modified text should be made to the contact person named above. The Department will transmit any modified text to all persons who testify at the public hearing; all persons who submit written comments at the public hearing; and all persons whose comments are received during the comment period, and all persons who request notification of the availability of such changes. The Department will accept written comments on the modified regulation for 15 days after the date on which they are made available.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, in order to implement, interpret and make specific PC Section 5009, proposes to amend Sections 3000, 3190, 3213, and 3334, of the California Code of Regulations (CCR), Title 15, Division 3, concerning Inmate Religious Property.

PUBLIC HEARING

Date and Time: **May 7, 2013 — 10:00 a.m. to 11:00 a.m.**
 Place: Department of Corrections and Rehabilitation
 Kern Room
 1515 S Street — North Building
 Sacramento, CA 95811

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close **May 7, 2013 at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
 Regulation and Policy Management Branch
 Department of Corrections and Rehabilitation
 P.O. Box 942883, Sacramento, CA 94283-0001
 Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**S. Pollock
 Regulation and Policy Management Branch
 Telephone (916) 445-2266**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Albert Chamberlin
 Division of Adult Institutions,
 General Population — Males
 (916) 323-2160**

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

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

EFFECT ON HOUSING COSTS

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulations will have no impact on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California, because the proposed regulation is providing a standardized list of allowable religious property items. The implementation of this proposed regulation will ensure security and safety within the institutions, while supporting inmates' right to freedom of religion.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

CONSIDERATION OF ALTERNATIVES

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

persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

INCORPORATION BY REFERENCE

The Religious Property Matrix, and the Proposed revisions to the Authorized Personal Property Schedules (religious property items only deleted), are documents incorporated by reference into these regulations and will be made available to the public along with the Notice of Proposed Regulations, Text of Proposed Regulations, and Initial Statement of Reasons.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AUTHORITY AND REFERENCE

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5009(a) provides that it is the intention of the Legislature that all prisoners shall be afforded reasonable opportunities to exercise religious freedom.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This action provides the following:

- Amends Section 3000, Definitions, to revise the definition of “Religious Artifact.”
- Amends the Table of Contents Chapter heading to read “Personal Property and Religious Property.”
- Amends Subchapter 2, Article 9 title to include “and Religious Property.”
- Removes religious property items from the Authorized Personal Property Schedule (APPS) (which is incorporated by reference in Section 3190(b)), and places them in a new Religious Property Matrix, which is a separate list of allowable religious personal property items.
- Incorporates by reference, a new Religious Property Matrix into Title 15.
- Revises the APPS due to the removal of religious items, and gives it a new revision date of 12/1/12.
- Replaces the language “Religious Artifact” with “Religious Item.”

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The anticipated benefits of the proposed regulations include: minimizing discrepancies of what is allowable religious personal property items within institutions, providing statewide standardization of religious personal property items, reducing potential inmate litigation, compliance with existing court mandates, and supporting inmates’ right to freedom of religion.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING REGULATIONS

The Department has determined that these proposed regulations are consistent and compatible with existing State laws and regulations. The Department reached this conclusion by reviewing the California Code of Regulations, Title 15, Division 3, and reviewing all references to “religious property,” and because the Religious Property Matrix is a newly proposed regulation that is not currently part of existing regulations.

TITLE 16. BOARD OF BEHAVIORAL SCIENCES

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

Board of Behavioral Sciences
 1625 N. Market Blvd.
 El Dorado Room, Suite 220
 Sacramento, CA 95834
 April 30, 2013
 10:00 a.m.–11:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on April 29, 2013 or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4980.60 and 4990.20 of the Business and Professions Code (B&P Code), and to implement, interpret or make specific Sections 163.5, 4980.30, 4980.40, 4980.397, 4980.399, 4980.54, 4980.72, 4984.01, 4984.7, 4984.72, 4989.20, 4989.22, 4989.68, 4992, 4992.05, 4992.09, 4996.1, 4996.2, 4996.3, 4996.4, 4996.6, 4996.17, 4996.28, 4997, 4999.50, 4999.53, 4999.54, 4999.55, 4999.60, 4999.64, 4999.100, 4999.104, 4999.112, and 4999.120 of the B&P Code, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations as described in this Notice.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

SB 704 (Chapter 387, Statutes of 2011) restructures the examination process for applicants seeking Marriage and Family Therapist (LMFT), Clinical Social Worker (LCSW), and Professional Clinical Counselor (LPCC) licensure by the Board.

Passage of this legislation means that effective January 1, 2014, applicants for LMFT, LPCC, and LCSW licensure shall pass two exams: a California law and ethics examination (law and ethics exam) and a clinical examination (clinical exam). These new exams replace the standard written and the clinical vignette exams currently in place for LMFT and LCSW applicants, and alter the timing of the examination process for all three license types.

In addition to this change, the passage of SB 274 (Wyland, Chapter 148, Statutes of 2011), deleted the annual renewal requirement for LPCCs who obtained a license through the grandparenting process. Grandparented LPCCs will now renew biennially, consistent with all other Board-issued licenses. The proposed regulations incorporate this change as well.

In response to these legislative changes, the Board is proposing several regulatory amendments in order to make its regulations consistent with its licensing laws:

Amend Section 1805; Adopt Section 1805.01 — Reexamination

Currently, the regulations state that a 180-day waiting period is required between examinations for any applicant retaking an examination. Now that the Board will be accepting certain national examinations, it is possible that those national examination entities may have different wait times between exams. Therefore, language is proposed to simply state that an applicant shall not take a version of any board-administered exam that is different from the one the applicant most recently took. This accomplishes the same purpose of

the 180-day wait period. The language would also state that wait periods for accepted national exams shall be determined by the national testing entity.

Policy Statement Overview: Adoption of this proposed amendment will benefit applicants, as it will eliminate any conflict and subsequent confusion between the Board's prescribed 180-day wait period to retake an exam, and possible differing policies of national testing entities.

Amend Sections 1806, 1816.2, 1816.3, 1816.4, 1829, and 1877; Adopt Sections 1825, 1826, 1830, and 1878 — Replace References to Obsolete Examinations and Reference Correct Examination Processes

The standard written and clinical vignette examinations are referenced by name in several regulatory sections. These examinations will no longer be offered as of January 1, 2014. Therefore, these references need to be deleted and replaced with references to the new California law and ethics and clinical exams.

Additionally, the previous standard written and clinical vignette examinations were taken once education and experience had been gained, and the clinical vignette exam could not be taken until the standard written exam had been passed. When the exam restructure goes into effect on January 1, 2014, the timing of when examinations are taken will change.

This regulatory proposal replaces references to the old standard written and clinical vignette examinations with references to the new clinical and California law and ethics examinations. It also replaces references to prior procedures and timeframes for taking examinations with the new procedures and timeframes.

Policy Statement Overview: Adoption of this proposed amendment will benefit applicants, licensees, and consumers by ensuring that the Board's laws and regulations are consistent.

Amend Section 1806 — Abandonment of Application

When an applicant becomes eligible to sit for an exam, if he or she fails to take the exam within a specified period of time, the application is abandoned. As a result of the change to the timing of when the examinations are taken, some of the criteria for abandonment of an application in Section 1806 are no longer correct. For example, an applicant is now required to sit for the California law and ethics examination in the first year of registration. This was not previously the case. Therefore, the regulations need to specify that if this exam is not taken in the first year of registration, the application would be considered abandoned.

Policy Statement Overview: Adoption of this proposed amendment will benefit applicants, licensees, and consumers by ensuring that the Board's laws and

regulations are consistent and that all possible scenarios for failing to take an exam are covered.

Amend Section 1816 — Removal of Social Worker Extension Fee

This proposal would delete the social worker extension fee in Section 1816. The authority of the Board to issue extensions was removed from law as of 2008 (SB 1048, Chapter 588, Statutes of 2007) and therefore the provision is now obsolete.

Policy Statement Overview: Adoption of this proposed amendment will benefit applicants, licensees, and consumers by ensuring that the Board’s laws and regulations are consistent.

Amend Sections 1816, 1816.6, 1816.7 — Changes Related to the Removal of Annual Renewal for Grandparented LPCCs

SB 274 (Chapter 148, Statutes of 2011), deleted the annual renewal requirement for LPCCs who obtained a license through the grandparenting process.

This proposal would delete obsolete provisions in the regulation that set fees for an annually renewing grandparented LPCC licenses.

Policy Statement Overview: Adoption of this proposed amendment will benefit applicants, licensees, and consumers by ensuring that the Board’s laws and regulations are consistent.

Adopt Sections 1825 and 1826 — Designate LPCC Examinations and Processes

The law allows the Board to accept either a Board-administered examination, or the NCMHCE examination (if determined acceptable by the Board) as the clinical exam. Therefore, language is being proposed in the regulation to state that either a board-accepted national exam or a board-administered clinical exam, as determined by the Board, and the California law and ethics examination, are the Board-designated exams required for LPCC applicants.

Language is also being proposed to clarify the process by which an applicant becomes eligible to take the California law and ethics examination, and how he or she must maintain this eligibility in subsequent renewal periods if the exam is not passed.

Policy Statement Overview: Adoption of this proposed amendment will benefit applicants, licensees, and consumers by ensuring that the Board’s laws and regulations are consistent.

In addition, adoption of this proposed amendment will benefit applicants and licensees by providing increased portability of licensure across states, should the Board determine that the national exam meets California standards. If the national exam is accepted, the amendment may increase the availability of mental

health practitioners to the public, as increased portability of licensure may increase the number of practitioners seeking a license in California.

These amendments will also ensure that there is a clear process by which an applicant can gain and maintain eligibility to take the California law and ethics examination.

Amend Sections 1829 and 1877, Adopt Sections 1830 and 1878 — Board Consideration of National Exams for LMFT and LCSW Applicants

The Board has been considering use of a national exam as its clinical exam for LMFT and LCSW applicants. Adoption of a national exam would increase portability of the license across states.

Currently, the Board has voted to accept the Association of Social Work Boards (ASWB) Clinical Level Examination for those seeking LCSW licensure with the Board, and is currently working on a contract with ASWB to offer that exam beginning in January 2014. In addition, the Board will continue working with the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) to determine if its exam for LMFT licensure may be viable for use in California in the future.

This regulation package proposes adding language to regulations which will clarify that either a board-accepted national exam or a board-administered clinical exam, as determined by the Board, and the California law and ethics examination, are the Board-designated exams required for LMFT and LCSW applicants.

Language is also being proposed to clarify the process by which an applicant becomes eligible to take the California law and ethics examination, and how they must maintain this eligibility in subsequent renewal periods if the exam is not passed.

Policy Statement Overview: Adoption of this proposed amendment will benefit applicants, licensees, and consumers by ensuring that the Board’s laws and regulations are consistent.

In addition, adoption of this proposed amendment will benefit applicants and licensees by providing increased portability of licensure across states, should the Board determine that the national exams meet California standards. If the national exams are accepted, the amendment may increase the availability of mental health practitioners to the public, as increased portability of licensure may increase the number of practitioners seeking a license in California.

These amendments will also ensure that there is a clear process by which an applicant can gain and maintain eligibility to take the California law and ethics examination.

Amend Sections 1806, 1816, 1816.2, 1816.3, 1816.4, 1816.5, 1816.6, 1816.7, 1829, and 1877 — Technical and Non-Substantive Changes

This proposal makes several non-substantive and technical amendments which are needed in order to update the regulations to be consistent with current statutes. These amendments are as follows:

- Update of authority and reference citations to reflect statutory changes and additions;
- Deletion of obsolete code section references;
- Incorporation of the term “Licensed” to the title “Marriage and Family Therapist” to accurately reference the title given to these licensees; and
- Deletion of fees which expired in 2002.

Policy Statement Overview: Adoption of this proposed amendment will benefit applicants, licensees, and consumers by ensuring that the Board’s laws and regulations are consistent.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

This regulatory proposal is consistent and compatible with existing state regulations. This proposal is making amendments to ensure that the Board’s regulations are consistent with its licensing laws.

FISCAL IMPACT ESTIMATES

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

The changes proposed by this regulation package make technical and non-substantive changes and make the regulations consistent with the changes in statute as a result of the passage of SB 704 and SB 274. The technical and non-substantive changes will not result in any new fiscal impacts, as they are simply making regulations consistent with changes that have already been made statutorily.

This regulatory proposal does make one amendment that will have a fiscal impact. Currently, the Board will administer its own clinical examinations for LMFT and LCSW licensure. This package is proposing the addition of language stating that the Board may consider using a national examination as the clinical exam for LMFT and LCSW licensure, if the Board determines these examinations are acceptable.

The Board is planning on using the ASWB Clinical Level Examination for those seeking LCSW licensure as the clinical exam beginning in January 2014. This will lead to some cost savings, because the Board will no longer offer a clinical exam for LCSW applicants.

Therefore, the Board will no longer incur development costs for this exam, or exam administration costs for the exam. However, there will be some lost revenue to the Board, as applicants for this exam will pay the national testing entity directly when they take the exam, instead of paying the exam fee to the Board as they have previously. These potential cost savings and lost revenues are estimated in Attachment A of the STD. 399.

The Board does not plan to use the national exam for LMFT licensure at this time, as it does not meet California standards. Therefore, these costs savings and lost revenues do not apply to this exam. The Board will continue to work with the national LMFT exam testing entity in the future to see if the exam is viable for use in California.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

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

The following relevant data was relied upon when making the above determination:

- The changes proposed by these regulations are being made so the Board’s regulations are consistent with recent statutory changes that become effective January 1, 2014.
- Allowing the board to consider using national licensing examinations does not have an impact on businesses within California.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. This proposal may increase portability of licensure for certain out-of-state applicants seeking licensure in California, as follows:

- If the Board decides to accept a national exam for licensure as the clinical exam, and if an out-of-state applicant has already taken and passed the particular national exam the Board has accepted, then he or she may no longer need to take a Board-administered clinical exam, if certain requirements are met.

Cost Impact on Representative Private Person or Business: The Board has determined that a representative private person or business in reasonable com-

pliance with the proposed action would not incur any cost impacts, for the following reasons:

- The changes proposed by these regulations are being made so the Board’s regulations are current with recent statutory changes that are already in place.
- Allowing the Board to use a national licensing examination instead of a Board-administered examination does not cause a cost impact on an individual or business.

Effect on Housing Costs: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulations do not impose any new requirements on a licensee, registrant, or applicant. The proposed changes are making regulations consistent with changes that have already been made statutorily.

As part of its Economic Impact Analysis, the Board has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations. This proposal does not impact multiple industries.

Effect on Small Businesses: The Board has determined that the proposed regulations will not affect small businesses. The regulatory proposal makes Board regulations consistent with current law.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. This proposal may increase portability of licensure for certain out-of-state applicants seeking licensure in California, as follows:

- If the Board decides to accept a national exam for licensure as the clinical exam, and if an out-of-state applicant has already taken and passed the particular national exam the Board has accepted, then he or she may no longer need to take a Board-administered clinical exam, if certain requirements are met.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment: The Board has determined that this regu-

latory proposal will benefit the health and welfare of California residents indirectly by ensuring the laws and regulations related to the licensing of mental health practitioners are consistent. The proposal will have no effect on worker safety or the State’s environment.

Occupations/Businesses Impacted: This proposed regulation will impact applicants and licensees by ensuring the laws and regulations regarding their licensure are consistent.

Reporting Requirements: None.

Comparable Federal Regulations: None.

Benefits: The benefits will be consistency of the Board’s licensing laws and its regulations, and the possibility of future increased license portability for some out-of-state applicants.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board 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.

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the Notice under Contact Person or by accessing the Board’s website, www.bbs.ca.gov.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which

is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Rosanne Helms
Address: 1625 N. Market Blvd.,
Suite S-200
Sacramento, CA 95834
Telephone No.: (916) 574-7897
Fax No.: (916) 574-8626
E-mail Address: Rosanne.Helms@dca.ca.gov

The backup contact person is:

Name: Marc Mason
Address: 1625 N. Market Blvd.,
Suite S-200
Sacramento, CA 95834
Telephone No.: (916) 574-7828
Fax No.: (916) 574-8626
E-mail Address: Marc.Mason@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.bbs.ca.gov.

TITLE 16. DENTAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Dental Board of California (hereinafter "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Department of Consumer Affairs
2005 Evergreen Street,
1st Floor Hearing Room
Sacramento, California 95815
Monday, April 29, 2013
10:00 a.m.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on Monday, April 29, 2013 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related

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

Authority and Reference: Pursuant to the authority vested by Sections 315, 315.2, 315.4, and 1614 of the Business and Professions Code and Section 11400.20 of the Government Code, to implement, interpret or make specific Sections 315, 315.2, 315.4 of the Business and Professions Code and Sections 11400.20 and 11425.50(e) of the Government Code, the Board is considering changes to Division 10 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board currently regulates approximately 73,300 licensees, consisting of 38,000 dentists, 34,000 registered dental assistants, and 1,300 registered dental assistants in extended functions. In addition, the Board has the responsibility for setting the duties and functions of approximately 50,000 unlicensed dental assistants. The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Board achieves this goal are: issuing licenses to eligible applicants; investigating complaints against licensees and disciplining licensees for violations of the Dental Practice Act (Act); monitoring licensees whose licenses have been placed on probation; and managing the Diversion Program for licensees whose practice may be impaired due to abuse of dangerous drugs or alcohol.

Existing law, Business and Professions Code (Code) Section 1614 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable the Board to carry into effect the provisions of the Dental Practice Act.

Existing law, Code Section 315, established the Substance Abuse Coordination Committee (SACC) within the Department of Consumer Affairs (Department) and required the SACC to formulate uniform and specific standards in sixteen specified areas for each healing arts board to use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program.

Existing law, Code Section 315.2, specifies that a healing arts board within the Department is required to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the

terms of the licensee's probation or diversion program. The cease practice order pursuant to this section does not constitute disciplinary action and is not subject to adjudicative hearings.

Existing law, Code section 315.4, authorizes healing arts boards within the Department to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under section 315. The cease practice order pursuant to this section does not constitute disciplinary action and is not subject to adjudicative hearings.

Existing law, Government Code Section 11400.20, authorizes an agency to adopt regulations to govern an adjudicative proceeding.

Existing law, Government Code Section 11425.50(e), specifies that a penalty may not be based on a guideline, criterion, bulletin, manual, instruction, order, standard of general application or other rule unless it has been adopted as a regulation.

Existing law, California Code of Regulations, Title 16, Section 1018 specifies that the Board shall consider the disciplinary guidelines entitled *Dental Board of California Disciplinary Guidelines With Model Language, Revised 08/30/2010* in reaching a decision on a disciplinary action under the Administrative Procedure Act.

There is not an existing federal regulation or statute comparable to this proposal.

The main purpose for this proposal is to amend Section 1018 and adopt Section 1018.01 of Article 4.5 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations. Additionally, the Board proposes adopting the document entitled *Uniform Standards Related to Substance–Abusing Licensees with Standard Language for Probationary Orders, New February 28, 2013*, which has been incorporated by reference in the proposed adoption of Section 1018.01. This proposal would adopt the uniform standards established by the SACC and would adopt standard language for probationary orders to be used by an Administrative Law Judge if an individual is determined to be a substance abuser after a formal adjudicative hearing. The Board will use the *Uniform Standards Related to Substance–Abusing Licensees with Standard Language for Probationary Orders, New February 28, 2013* in addition to the Board's *Dental Board of California Disciplinary Guidelines With Model Language, Revised 08/30/2010* (Disciplinary Guidelines) when taking action to suspend, revoke, or place a license on probation when the individual has been determined to be a substance abus-

er. The proposed language is necessary to aid the Board in the discipline of substance abusing licensees to provide better public protection to the people of California.

The Board is proposing the following changes:

Amend the title of Article 4.5 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations (Disciplinary Guidelines and Uniform Standards for Substance–Abusing Licensees):

This proposal would amend the title of Article 4.5. The title would be changed from “Disciplinary Guidelines” to “Disciplinary Guidelines and Uniform Standards for Substance–Abusing Licensees”.

Amend Section 1018 of Article 4.5 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations (Disciplinary Guidelines and Exceptions for Uniform Standards Related to Substance–Abusing Licensee):

This proposal would amend Section 1018 to specify that, in addition to the Board's Disciplinary Guidelines, the Board is required to use the *Uniform Standards Related to Substance–Abusing Licensees with Standard Language for Probationary Orders, New February 28, 2013* for each individual determined to be a substance abuser.

Adopt Section 1018.01 of Article 4.5 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations (Uniform Standards for Substance–Abusing Licensees):

This proposal would adopt Section 1018.01 relative to uniform standards for substance–abusing licensees. This section would adopt the document entitled *Uniform Standards Related to Substance–Abusing Licensees with Standard Language for Probationary Orders, New February 28, 2013*, which has been incorporated by reference. This section would require the terms and conditions contained in the document entitled *Uniform Standards Related to Substance–Abusing Licensees with Standard Language for Probationary Orders, New February 28, 2013*, be used in any probationary order of the Board that affects a licensee determined to be a substance abuser after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with sections 11500 et seq.). This proposal would specify that the proposed provisions contained in section 1018.01 would not prohibit the Board from imposing additional terms or conditions of probation that are specific to a particular case or that are derived from the Board's Disciplinary Guidelines that would provide greater public protection.

Adopt the Uniform Standards Related to Substance–Abusing Licensees with Standard Language for Probationary Orders, New February 28, 2013, that is incorporated by reference in Section 1018.01 of Article 4.5 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations:

This proposal would adopt the document entitled *Uniform Standards Related to Substance–Abusing Licensees with Standard Language for Probationary Orders, New February 28, 2013*, which has been incorporated by reference in Section 1018.01(a). The proposed adoption of the document includes the following:

- Standard language to be included in every probationary order for a licensee determined to be a substance abuser pursuant to Section 1018.01.
- Additional probationary terms and conditions to be used in lieu of any similar standard or optional term or condition proposed by the Board’s Disciplinary Guidelines. Those terms and conditions are:
 - (1) Notification to Employer: This condition of probation requires the probationer to notify their employer, supervisor, or contractor, or prospective employer or contractor of the Decision and Accusation. This condition also contains other specified requirements relative to providing notification.
 - (2) Supervised Practice: This condition of probation requires the probationer to comply with specified supervised practice requirements. The probationer is responsible for all costs associated with such supervision.
 - (3) Drugs and Alcohol Testing: This condition of probation requires the probationer to comply with specified drug and alcohol testing requirements. The probationer is responsible for all costs associated with such testing.
 - (4) Abstain from Use of Alcohol, Controlled Substances, and Dangerous Drugs: This condition of probation requires the probationer to abstain completely from the use of alcohol, controlled substances, and dangerous drugs unless lawfully prescribed as specified.
 - (5) Facilitated Group Support Meetings: This condition of probation requires the probationer to attend facilitated group support meetings as specified. The probationer is responsible for all costs associated with attending such meetings.
 - (6) Clinical Diagnostic Evaluation: This condition of probation requires the probationer to undergo a clinical diagnostic

evaluation as specified. The probationer is responsible for all costs associated with such evaluation.

- (7) Drug or Alcohol Abuse Treatment Program: This condition of probation requires the probationer to undergo a drug or alcohol abuse treatment program as specified. The probationer is responsible for all costs associated with such treatment programs.

Anticipated Benefits of Proposal:

The benefit from these proposed regulations will be to provide maximum protection to the California consumers against licensees who are found to be in violation of the law or who do not demonstrate the competency necessary to perform their duties due to substance abuse. These benefits are a direct result of the Board’s statutorily mandated priority (Code Section 1601.2). The protection of the public is the highest priority of the Board in exercising licensing, regulatory, and disciplinary functions. The proposed adoption of these additional probation conditions will ensure that individuals who have been determined to be substance abusers will be effectively disciplined in a manner that will protect the public. Additionally, these probation conditions provide the Board with an effective tool to discipline substance abusers who are in violation of the Act.

Consistency and Compatibility with Existing State Regulations:

Based on an initial evaluation, the Board does not believe that the proposed regulation is inconsistent or incompatible with existing state regulations. Existing Board regulation regarding its Disciplinary Guidelines (Cal. Code of Regs., Title 16, Section 1018) provide recommended penalties for those found in violation of the Act; such recommended penalties are included for violations involving substance abuse. This proposal has been written in a manner consistent with the Board’s existing Disciplinary Guidelines to clearly indicate to the Administrative Law Judge that *Uniform Standards Related to Substance–Abusing Licensees with Standard Language for Probationary Orders, New February 28, 2013* conditions of probation should be used in lieu of similar standard or optional terms or conditions contained in the Board’s Disciplinary Guidelines. However, this proposal does not preclude the Administrative Law Judge or the Board from imposing additional terms and conditions of probation that are specific to a particular case as provided in the Board’s Disciplinary Guidelines.

INCORPORATION BY REFERENCE

The document entitled *Uniform Standards Related to Substance–Abusing Licensees with Standard Language*

for Probationary Orders, New February 28, 2013, has been incorporated by reference in the proposed adoption of Section 1018.01.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact/Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete: The Board has made an initial determination that the proposed regulation may have a significant, statewide adverse economic impact directly affecting business, including the inability of California businesses to compete with businesses in other states.

The following types of businesses would be affected:

- Businesses owned by licensees of the Board who face disciplinary action due to substance abuse; and
- Businesses that employ licensees of the Board who face disciplinary action due to substance abuse.

A license that has been revoked, suspended, reprimanded, or placed on probation may cause a significant fiscal impact on the business where the licensee worked depending on the nature and severity of the violation. A business owned by a licensee who faces disciplinary action may incur a significant fiscal impact depending on the nature and severity of the violation. The Board does not maintain data relating to the number or percentage of licensees who own a business; therefore, the number or percentage of businesses that may be impacted cannot be predicted. The Board only has authority to take administrative action against a licensee and not a business. Accordingly, the initial or ongoing costs for a small business owned by a licensee who is the subject of disciplinary action cannot be projected. Businesses operated by licensees who are in compliance with the law will not incur any fiscal impact.

The Board has not considered proposed alternatives that would lessen any adverse economic impact on businesses and invites you to submit such proposals. Submissions may include the following considerations:

- (A) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.

- (B) Consolidation or simplification of compliance and reporting requirements for businesses.

- (C) The use of performance standards rather than prescriptive standards.

- (D) Exemption or partial exemption from the regulatory requirements for businesses.

The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence which supports this determination.

Cost Impact on Representative Private Person or Business:

Specifically, this proposal would impact individuals and businesses owned by licensees who face disciplinary action because they have been determined to be a substance abuser. The Board currently regulates approximately 73,300 licensees; consisting of 38,000 dentists (DDS), 34,000 registered dental assistants (RDA), and 1,300 registered dental assistants in extended functions (RDAEF). The average salary of a practicing DDS in California is approximately \$150,000 per year and the average salary of a practicing RDA in California is approximately \$35,000 per year.

A license that has been revoked, suspended, reprimanded, or placed on probation may cause a significant fiscal impact on the business where the licensee worked depending on the nature and severity of the violation. A business owned by a licensee who faces disciplinary action may incur a significant fiscal impact depending on the nature and severity of the violation. The Board does not maintain data relating to the number or percentage of licensees who own a business; therefore the number or percentage of businesses that may be impacted cannot be predicted. The Board only has authority to take administrative action against a licensee and not a business. Accordingly, the initial or ongoing costs for a small business owned by a licensee who is the subject of disciplinary action cannot be projected. Businesses operated by licensees who are in compliance with the law will not incur any fiscal impact.

The terms and conditions contained in the document entitled *Uniform Standards Related to Substance-Abusing Licensees with Standard Language for Probationary Orders, New February 28, 2013* will be used in any probationary order of the Board affecting an individual determined to be a substance abuser as provided by the proposed adoption of Section 1018.01. The probationer is responsible for costs associated with the terms and conditions of their probation. For the purposes of this analysis, the estimated fiscal and economic impact of the proposed conditions of probation will be based on five (5) and seven (7) year terms of probation.

The costs to the probationer associated with Condition (1) Notification to Employer would be minor and absorbable. Probationers may incur nominal costs

associated with providing notification to the employer of the Decision or Accusation. Additionally, the probationer may incur nominal costs associated with providing the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors, or contractors, as well as the facility or facilities where the probationer practices. This regulation does not specifically state the manner of how a probationer is to provide the specified information. Licensees may choose from a variety of methods to notify the Board, including email, or mailing a letter. A licensee may incur nominal costs associated with mailing their letter to the Board.

The costs to the probationer associated with Condition (4) Abstain from Use of Alcohol, Controlled Substances and Dangerous Drugs would be minor and absorbable. There is no cost associated with abstaining from the use of alcohol, drugs, controlled substances, and dangerous drugs. Probationers may incur nominal costs associated with providing the Board with specified information regarding lawful prescription medications lawfully prescribed by a physician and surgeon, dentist, or nurse practitioner for a bona fide illness or condition. This regulation does not specifically state the manner of how a probationer is to provide the specified information. Licensees may choose from a variety of methods to notify the Board, including email, or mailing a letter. Licensees may incur nominal costs associated with mailing their letter to the Board.

The probationer will incur significant fiscal impact associated with paying for costs associated with the following conditions of probation:

- ▶ Probation Condition (2) Supervised Practice;
- ▶ Probation Condition (3) Drug and Alcohol Testing;
- ▶ Probation Condition (5) Facilitated Group Support Meetings;
- ▶ Probation Condition (6) Clinical Diagnostic Evaluation; and
- ▶ Probation Condition (7) Drug or Alcohol Abuse Treatment Program.

Probation Condition (2) Supervised Practice specifies that all costs of supervision shall be paid by the probationer. The fee a supervisor may charge a probationer can vary. The Board estimates a supervisor may charge a probationer a fee of \$0 to \$200 per month for services. For the purposes of this analysis, the Board estimates a probationer will incur a cost of \$100 per month for supervised practice. This cost would translate to \$1,200 annually or \$6,000 over the course of a 5-year probation term, and \$8,400 over the course of a 7-year probation term.

Probation Condition (3) Drug and Alcohol Testing specifies that all costs of the testing shall be paid by the probationer. The rate associated with the drug test and collection fee varies based on the rate charged by the collection company. The Board would contract with a specific drug testing collection agency. The probationer would be required to submit to testing through the Board-contracted agency. The Board estimates that the probationer would be charged an estimated fee of \$100 per drug test. This would include the average fee for urine analysis (\$50) and average collection fee (\$50). The proposed regulation specifies that the probationer would be tested at least fifty-two (52) times during the first year of probation; at least thirty-six (36) times during the second through fifth years of probation; and at least once (1) per month after the fifth year as long as there have not been any positive results during the previous five years. The Board estimates the probationer would incur a cost of \$433.33 per month for the first year of probation, \$300 per month for years two through five, and \$100 per month for years six through seven. This would equate to an approximate cost of \$5,200 for the first year, \$3,600 per year for the second through fifth year, and \$1,200 per year for the sixth through seventh year. The probationer would pay approximately \$19,600 to comply with this condition over the course of a 5-year probation term and approximately \$22,000 to comply with this condition over the course of a 7-year probation term.

Probation Condition (5) Facilitated Group Support Meetings specifies that all costs associated with facilitated group support meetings shall be paid by the probationer. The rate associated with support meetings varies based on the support group facilitator and frequency. The charge to attend meetings may vary from \$50 to \$160 per week. For the purposes of this analysis, the Board estimates the probationer will incur a cost of \$100 per week to attend facilitated group support meetings twice a week. This cost would translate to approximately \$433.33 per month or \$5,200 annually. A probationer would pay approximately \$26,000 over the course of a 5-year probation term, and \$36,400 over the course of a 7-year probation term.

Probation Condition (6) Clinical Diagnostic Evaluation specifies that all costs associated with such evaluation shall be paid by the probationer. The costs associated with clinical diagnostic evaluation may vary from \$3,000 to \$10,000 based upon the provider and how extensive the evaluation. There can be a significant difference in cost between a 3-day evaluation and a 10-day evaluation. For the purposes of this analysis, the Board estimates the probationer will incur a cost of \$5,000 per evaluation. Additionally, when a probationer is ordered to undergo a clinical diagnostic evaluation,

the probationer is also required to cease practice for a minimum of thirty (30) days. Probationers will incur lost wages as a result of a cease practice order. The Board estimates a DDS probationer will lose approximately \$12,500 in wages (\$150,000/12 months) for every 30-day cease practice order. The Board estimates an RDA probationer will lose approximately \$2,917 in wages (\$35,000/12 months) for every 30-day cease practice order.

Probation Condition (7) Drug or Alcohol Abuse Treatment Program specifies that all costs associated with the completion of such program shall be paid by the probationer. The costs associated with completing a drug or alcohol abuse treatment program may vary from \$10,000 to \$35,000 depending on the treatment program, facility, insurance, and length of program. However, county facilities and The Salvation Army offer treatment programs on a sliding scale or at no cost. For the purposes of this analysis, the Board estimates the probationer will incur a cost of \$20,000 per treatment.

Assuming that the probationer is only ordered to undergo one (1) clinical diagnostic evaluation and one (1) drug and alcohol abuse treatment program during the first year of probation, the Board estimated a probationer will pay approximately \$36,600 during the first year of probation, \$10,000 each year for the second through fifth year of probation, and \$7,600 each year for the sixth through seventh year of probation to comply with the terms of probation. This would equate to an approximate total cost to the probationer of \$76,600 to comply with a 5-year probation term and \$91,800 to comply with a 7-year probation term. Over the course of a 5-year probation term a DDS earning \$150,000 per year would pay approximately 10% of their total income towards the costs of complying with the proposed conditions of probation; and, RDAs earning \$35,000 per year would pay approximately 44% of their total income towards the costs of complying with the proposed conditions of probation. Over the course of a 7-year probation term a DDS earning \$150,000 per year would pay approximately 9% of his or her total income towards the costs of complying with the proposed conditions of probation; and, RDAs earning \$35,000 per year would pay approximately 37% of their total income towards the costs of complying with the proposed conditions of probation.

- ▶ DDS \$150,000 Earned Annually x 5 Years = \$750,000
\$76,600 Total Probation Costs / \$750,000 Earned over 5 Years = Approx. 10%
- ▶ RDA \$35,000 Earned Annually x 5 Years = \$175,000
\$76,600 Total Probation Costs / \$175,000 Earned over 5 Years = Approx. 44%

- ▶ DDS \$150,000 Earned Annually x 7 Years = \$1,050,000
\$91,800 Total Probation Costs / \$1,050,000 Earned over 7 Years = Approx. 9%
 - ▶ RDA \$35,000 Earned Annually x 7 Years = \$245,000
\$91,800 Total Probation Costs / \$245,000 Earned over 7 Years = Approx. 37%
- Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation may affect small businesses. The Board only regulates activities that appear to affect small businesses as defined in California Government Code Section 14837.

A license that has been revoked, suspended, reprimanded, or placed on probation may cause a significant fiscal impact on the small business where the licensee worked depending on the nature and severity of the violation. A small business owned by a licensee who faces disciplinary action may incur a significant fiscal impact depending on the nature and severity of the violation. The Board does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted. The Board only has authority to take administrative action against a licensee and not a small business. Accordingly, the initial or ongoing costs for a small business owned by a licensee who is the subject of disciplinary action cannot be projected. Small businesses operated by licensees who are in compliance with the law will not incur any fiscal impact.

Probationers are required to provide specified information to the Board as required by each term and condition of probation. This regulation does not specifically state the manner of how a probationer is to provide the specified information. Licensees may choose from a variety of methods to notify the Board, including email, or mailing a letter. A licensee may incur nominal costs associated with mailing a letter to the Board.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will impact the creation or elimination of jobs, the creation of new business or elimination of existing businesses, and the expansion of businesses currently doing business within the State of California because a license that has been revoked, suspended, reprimanded, or placed on probation may cause a significant fiscal im-

impact on the business where the licensee worked depending on the nature and severity of the violation. A business owned by a licensee who faces disciplinary action may incur a significant fiscal impact depending on the nature and severity of the violation. The Board does not maintain data relating to the number or percentage of licensees who own a business; therefore, the number or percentage of businesses that may be impacted cannot be predicted. The Board only has authority to take administrative action against a licensee and not a business. Accordingly, the initial or ongoing costs for a small business owned by a licensee who is the subject of disciplinary action cannot be projected. Businesses operated by licensees who are in compliance with the law will not incur any fiscal impact.

Benefits of Regulation:

The Board has determined that this regulatory proposal will protect the health and welfare of California residents by providing maximum protection to the California consumers against licensees who are found to be in violation of the law or who do not demonstrate the competency necessary to perform their duties due to substance abuse. These benefits are a direct result of the Board's statutorily mandated priority (Code Section 1601.2). The protection of the public is the highest priority of the Board in exercising licensing, regulatory, and disciplinary functions. The proposed adoption of these additional probation conditions will ensure that individuals who have been determined to be substance-abusing licensees will be effectively disciplined in a manner that will protect the public. Additionally, these probation conditions provide the Board with an effective tool to discipline substance-abusing licensees who are in violation of the Dental Practice Act.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would 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 statutory policy or other provision of law than the proposal described in this Notice.

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

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Board of California at 2005 Evergreen Street, Suite 1550, Sacramento, California 95815 or by accessing the Board's website at <http://www.dbc.ca.gov/lawsregs/index.shtml>.

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

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

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

CONTACT PERSON

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

Name: Lori Reis, Complaint and Compliance Manager
Address: Dental Board of California
2005 Evergreen Street,
Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2216
Fax No.: (916) 263-2140
E-Mail Address: Lori.Reis@dca.ca.gov

The backup contact person is:

Name: Karen M. Fischer,
Interim Executive Officer
Address: Dental Board of California
2005 Evergreen Street,
Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2300
Fax No.: (916) 263-2140
E-Mail Address: Karen.Fischer@dca.ca.gov

Website Access: Materials regarding this proposal can be found at the Board's Web site at: <http://www.dbc.ca.gov/lawsregs/index.shtml>.

GENERAL PUBLIC INTEREST

TITLE 27. CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Cal/EPA Unified Program

NOTICE OF CHANGE OF DATE OF REGULATORY HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD

NOTICE IS HEREBY GIVEN that the Cal/EPA Unified Program has **rescheduled the regulatory hearing** originally scheduled for **April 8, 2013, at 1:30 p.m.**, in the Cal/EPA headquarters building, Sierra Hearing Room, 2nd Floor, 1001 "I" street, Sacramento, California 95814, regarding proposed amendments to California Code of Regulations, Title 27, division 1, subdivision 4, chapter 1, sections 15100-15620 and the Data Dictionary elements (CCR Title 27, Division 3, Subdivision 1, Chapter 1-5).

The new date and location of the regulatory hearing is as follows:

Date of Hearing: **April 19, 2013**
Address: **Cal/EPA Unified Program
1001 I Street
Sierra Hearing Room, 2nd Floor
Sacramento, California 95814**
Time: **1:30 p.m.**
Registration Time: **12:30 p.m. – 1:30 p.m. at Sierra Hearing Room, 2nd Floor**

The written comment period has also been extended. Written comments, including those sent by

mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Agency at its office no later than 5:00 p.m. on April 19, 2013, or must be received by the Agency at the hearing. Attached is the Notice of Proposed Changes in the Regulations. To view the proposed Regulations, please go to <http://www.calepa.ca.gov/LawsRegs/default.htm>. Hardcopy of the entire rulemaking package can also be obtained by sending a request to Farida Islam at fislam@calepa.ca.gov.

CONTACT PERSON

If you have any questions or comments, you may direct them to:

Farida Islam, Environmental Scientist
Cal/EPA Unified Program
1001 I Street
Sacramento, California 95834
Telephone: (916) 322-2155
FAX: (916) 322-5615
E-Mail Address: fislam@calepa.ca.gov

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Division 4. Plant Industry
Chapter 2. Field Crops
Subchapter 2. Commercial Feed
Article 11. Inspection Tax and Plant Licenses
(Notice published March 8, 2013)

NOTICE OF PROPOSED RULEMAKING ADDRESS INFORMATION

On March 8, 2013, a Notice of Proposed Rulemaking was published for Fertilizing Materials to amend Section 2751 of the regulations in Title 3 of the California Code of Regulations pertaining to Licensing.

The address provided for submitting written comments remains the same:

Feed, Fertilizer, and Livestock Drug
Services Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814

However, The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at:

Feed, Fertilizer, and Livestock Drug
Services Branch
California Department of Food and Agriculture
2800 Gateway Oaks Drive, Sacramento, CA 95833.

Additionally, copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikethrough can be accessed through our website at: <http://www.cdfr.ca.gov/is/regulations.html>.

DEPARTMENT OF HEALTH CARE SERVICES

**Further Review of Medi-Cal Rates
Home Health Agency Services for 2001-2005**

The California Department of Health Care Services (DHCS) is issuing this notice to provide information of public interest with respect to its further review of Medi-Cal rates for home health agency (HHA) services during the period 2001-2005. This further review was done to comply with a court order issued October 11, 2012 in the case of *California Association for Health Services at Home, et al. v. Department of Health Care Services*. The court order was issued in accordance with the California Court of Appeal decision in *California Association of Health Services at Home, et al. v. State Department of Health Care Services* (March 26, 2012) 204 Cal. App. 4th 676.

In accordance with the court order, DHCS further reviewed whether Medi-Cal beneficiaries had sufficient access to HHA services during 2001-2005 in accordance with 42 United States Code section 1396a(a)(30)(A).

**THE FURTHER RATE REVIEW IS AVAILABLE
FOR PUBLIC REVIEW**

Any interested person may review and make copies of the Further Rate Review by going to the DHCS website at:

<http://www.dhcs.ca.gov/services/medi-cal/Pages/HHAratereview.aspx>

In addition, persons may obtain a copy of the further rate review by submitting a written request to:

John Mendoza, Acting Division Chief
Fee-For-Service Rates Development Division
Department of Health Care Services
1501 Capitol Avenue, MS 4600
Sacramento, California 95814

or at:

2013HHAccomments@dhcs.ca.gov

**PUBLIC HEARING AND WRITTEN
PUBLIC COMMENTS**

Notice is hereby given that DHCS will hold a public hearing commencing at 10:00 a.m. on April 15, 2013 in the Hearing Room at 1500 Capitol Avenue, Sacramento, California, at which time any person may present both oral and written comments on the further rate review described in this notice.

Written comments can be separately submitted by letter to DHCS on or before April 8, 2013, to the following address:

John Mendoza, Acting Division Chief
Fee-For-Service Rates Development Division
Department of Health Care Services
1501 Capitol Avenue, MS 4600
Sacramento, California 95814

**DEPARTMENT OF HEALTH CARE
SERVICES**

**CORRECTION TO NOTICE OF GENERAL
PUBLIC INTEREST**

**THE CALIFORNIA DEPARTMENT OF HEALTH
CARE SERVICES CORRECTS THE NUMBER OF
THE STATE PLAN AMENDMENT TO AMEND
THE MEDICAID PROGRAM STATE PLAN TO
UPDATE REIMBURSEMENT METHODOLOGY
FOR MEDI-CAL CHILDHOOD LEAD
POISONING PREVENTION
CASE MANAGEMENT**

This notice corrects the State Plan Amendment (SPA) number for the public notice published by Department of Health Care Services (DHCS) on February 15, 2013 for a proposed change in the methods and standards for setting payment rates for case management services to Medi-Cal beneficiaries under the Childhood Lead Poisoning Prevention Program benefit established in chapter 5 of part 5 of division 103 of the Health and Safety (H&S) Code (section 105275) and, specifically, section 105290. While the public notice said that DHCS would submit State Plan Amendment (SPA) 12-015, the correct SPA number will be 13-010. There are no other changes to the SPA or previously published public notice. For more information, please contact Janice Spitzer, Chief, Benefits Analysis Section; Medi-Cal Bene-

fits Division; Department of Health Care Services; MS 4600; P.O. Box 997417; Sacramento, CA 95899-7417.

DEPARTMENT OF MOTOR VEHICLES

Invitation to Pre-notice Public Discussions on Proposed Regulations Autonomous Vehicles

Pursuant to Government Code section 11346.45, the Department of Motor Vehicles (department) has set the time and place for the public to participate in discussions related to the proposed regulations related to the operation of Autonomous Vehicles.

The department will hold the workshop beginning at 10:00 a.m. on Friday, April 19, 2013, at the Department of General Services located at 707 Third Street, West Sacramento, California. The workshop will be held in the Auditorium, which is accessible to persons with disabilities. The Auditorium is located in a secure area of the building so please check-in at the security station. Parking is available in the parking garage adjacent to the building at a rate of \$2 per hour, however, the department cannot guarantee parking availability on the day of the public workshop.

Senate Bill 1298 (Chapter 570; Statutes of 2012) requires the department to adopt regulations establishing insurance, surety bond or self-insurance requirements and requirements for the submission of an application to operate an autonomous vehicle, including any testing, equipment, performance standards, or safety standards. The department is anticipating two regulatory actions to implement these requirements and is holding this pre-notice workshop, in accordance with the requirements of SB 1298, to allow the public an opportunity to provide input on areas that should be addressed in the proposed regulations.

At the workshop, any interested person may present statements, arguments, or contentions (orally, in writing, or both) that are relevant to the development of the regulations required by SB 1298. Persons requiring an interpreter are requested to notify the department as early as possible by calling the contact person named in this notice. Since the department is not able to anticipate the number of participants, the workshop may conclude before 4:00 p.m. if all attendees who wish to comment have provided their comment. Alternatively, this workshop will not be extended beyond the scheduled end time. For that reason, the department reserves the right to limit the length of time each participant has to comment.

Participation in the workshop will be in addition to, and not in substitution for, any participation in the for-

mal rulemaking process. This invitation does not constitute Notice of Proposed Action under the Administrative Procedure Act. Consequently, comments (oral or written) received in connection with the workshop will not be included in the formal rulemaking file. Similarly, the department is not required to respond to comments received in connection with the workshop. Therefore, if you wish to have comments included in the rulemaking file, or to require the department to respond to them as part of the process by which it adopts the regulations, you must present your comments during the formal public comment period according to the procedures outlined in the Notice of Proposed Action at the time that document is issued, regardless of whether the comments have been made in connection with the workshop.

If you have any questions, please contact Randi Calkins at (916) 657-6469 or by e-mail at LRegulations@dmv.ca.gov.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

REQUEST FOR RELEVANT INFORMATION ON A CHEMICAL BEING CONSIDERED FOR LISTING BY THE AUTHORITATIVE BODIES MECHANISM: EMISSIONS FROM COMBUSTION OF COAL

March 15, 2013

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is requesting information as to whether the chemical in the table below meets the criteria for listing as known to the State to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986.¹ This action is being proposed under the authoritative bodies listing mechanism.²

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306.

Chemical Appearing to Meet Criteria for Listing as Known to Cause Cancer		
Chemical	Reference	Occurrence and Uses
Emissions from combustion of coal	IARC (2010)	Residential and industrial facility combustion of coal fuel

Background on listing via the authoritative bodies mechanism: A chemical must be listed under the Proposition 65 regulations when two conditions are met:

1) An authoritative body formally identifies the chemical as causing cancer (Section 25306(d)³).

2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(e)).

However, the chemical is not listed if scientifically valid data which were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(f)).

The International Agency for Research on Cancer (IARC) is designated as authoritative for the identification of chemicals as causing cancer (Section 25306(m)).

OEHHA is the lead agency for Proposition 65 implementation⁴. After an authoritative body has made a determination about a chemical, OEHHA evaluates whether listing under Proposition 65 is required using the criteria contained in the regulations.

OEHHA’s determination: The chemical in the table above appears to meet the criteria for listing as known to the State to cause cancer under Proposition 65, based on findings of the IARC (2010).

Formal identification and sufficiency of evidence for emissions from combustion of coal: In 2010, IARC published *Volume 95* in the series *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans*, entitled *Household Use of Solid Fuels and High-temperature Frying* (IARC, 2010). This report appears to satisfy the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations for *emissions from combustion of coal*.

IARC concluded, “There is *sufficient evidence* in experimental animals for the carcinogenicity of emissions from combustion of coal.” OEHHA is relying on IARC’s discussion of data and conclusions in the report that *emissions from combustion of coal* cause cancer. Evidence described in the report includes studies showing that *emissions from combustion of coal* increase the incidences of malignant lung tumors in two studies in

Kumming mice (squamous-cell carcinomas, adenocarcinomas and adenocarcinomas in the study by Liang *et al.*, 1988, and adenocarcinomas in the study by Lin *et al.*, 1995) and one study in Wistar rats (squamous-cell carcinomas in the study by Liang *et al.*, 1988).

Thus, IARC (2010) has found that *emissions from combustion of coal* cause increased incidence of malignant lung tumors in mice and rats.

Request for relevant information: OEHHA is requesting comments as to whether *emissions from combustion of coal* meets the criteria set forth in the Proposition 65 regulations for authoritative bodies listings.

After reviewing all comments received, OEHHA will determine whether the identified chemical meets the regulatory criteria for administrative listing. If the chemical is determined to meet the listing criteria, OEHHA will proceed with the formal listing process by publishing a Notice of Intent to List.

In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Tuesday, May 14, 2013.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.Comments@oehha.ca.gov with “DCI — emissions from combustion of coal” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita
 Office of Environmental
 Health Hazard Assessment
 P.O. Box 4010, MS-19B
 Sacramento, CA 95812-4010

Fax: (916) 324-6511

Street Address: 1001 I Street
 Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period.

Optional public forum: Upon request, OEHHA will schedule an informal public forum to provide individuals an opportunity to present oral comments on the possible listing of this chemical. At the forum, the public may discuss the scientific data and other relevant information related to whether this chemical meets the criteria for listing in the regulations.

³ All referenced sections are from Title 27 of the California Code of Regulations.

⁴ Health and Safety Code section 25249.12 and Title 27, Cal. Code of Regs., section 25102(o).

The request for a public forum must be submitted in writing to Cynthia Oshita of OEHHA via email at Cynthia.Oshita@oehha.ca.gov or to the attention of Cynthia Oshita at the address listed above no later than Friday, April 12, 2013. If a public forum is requested, a notice will be posted on the OEHHA web site at least ten days before the forum date. The notice will provide the date, time and location of the forum. Notices will also be sent to those individuals requesting such notification. You may sign up for electronic notices at: <http://www.oehha.ca.gov/Listservs/default.asp>.

If you have any questions, please contact Ms. Oshita at Cynthia.Oshita@oehha.ca.gov or (916) 445-6900.

References

International Agency for Research on Cancer (IARC, 2010). *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, Volume 95, Household Use of Solid Fuels and High-temperature Frying*, IARC, World Health Organization, Lyon, France.

Liang CK, Quan NY, Cao SR *et al.* (1988). Natural inhalation exposure to coal smoke and wood smoke induces lung cancer in mice and rats. *Biomed Environ Sci* 1:42-50. PMID: 3268107

Lin C, Dai X, Sun X (1995). [Expression of oncogene and anti-oncogene in mouse lung cancer induced by coal-burning smoke]. *Zhonghua Zhong Liu Za Zhi* 17:432-434. PMID: 8697995.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**REQUEST FOR RELEVANT INFORMATION
ON CHEMICAL BEING CONSIDERED FOR
LISTING BY THE AUTHORITATIVE BODIES
MECHANISM:
METHYL ISOBUTYL KETONE**

March 15, 2013

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment

(OEHHA) is requesting information as to whether methyl isobutyl ketone meets the criteria for listing as a reproductive toxicant under the Safe Drinking Water and Toxic Enforcement Act of 1986.¹ This action is being proposed under the authoritative bodies listing mechanism.²

Background on listing via the authoritative bodies mechanism: A chemical must be listed under Proposition 65³ and its implementing regulations when two conditions are met:

- 1) An authoritative body formally identifies the chemical as causing reproductive toxicity (Section 25306(d)⁴).
- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(g)).

However, the chemical is not listed if scientifically valid data which were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(h)).

The U.S. Environmental Protection Agency (U.S. EPA) is one of several institutions designated as authoritative for the identification of chemicals as causing reproductive toxicity (Section 25306(l)).

OEHHA is the lead agency for implementation of Proposition 65⁵. After an authoritative body has made a determination about a chemical, OEHHA evaluates whether listing under Proposition 65 is required using the criteria contained in the regulations.

OEHHA's determination: Methyl isobutyl ketone appears to meet the criteria for listing as known to the State to cause reproductive toxicity under Proposition 65, based on findings of U.S. EPA in their documents, as indicated in the table below.

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs. section 25306.

³ Health and Safety Code section 25249.8(b).

⁴ All referenced sections are from Title 27 of the Cal. Code of Regulations.

⁵ Health and Safety Code section 25249.12 and Title 27, Cal. Code of Regs., section 25102(o).

Chemical	CAS No.	Endpoint	Reference	Chemical Use
Methyl isobutyl ketone (MIBK)	108-10-1	Developmental Toxicity	U.S. EPA (2003a and 2003b)	MIBK is used mainly as a coating solvent in cellulose-based and resin-based coating systems; as a separating agent for metals from solutions of their salts and in the mining industries to extract plutonium from uranium; in the production of paints, pesticide formulations, adhesives, wax/oil separation, leather finishing, textile coating, and specialty surfactants for inks and as a denaturant for ethanol formulations.

Formal identification and sufficiency of evidence:
 In 2003, U.S. EPA updated its online Integrated Risk Information System (IRIS) entry for methyl isobutyl ketone (U.S. EPA, 2003a). The inhalation reference concentration (RfC) was based on developmental toxicity manifested as reduced fetal body weight, skeletal variations, and increased fetal death in mice, and skeletal variations in rats. This appears to meet the criterion in Section 25306(d)(1) that the chemical “has otherwise been identified as causing . . . reproductive toxicity by the authoritative body in a document that indicates that such identification is a final action”.

In support of the IRIS entry, a comprehensive review and summary of the available toxicological data was published as a Toxicological Review (U.S. EPA, 2003b). Under the Section of that document titled “Major Conclusions in the Characterization of Hazard and Dose Response”, the authoritative body concludes that:

“The developmental effects in rats and mice after gestational inhalation exposure are considered to be the most clearly adverse effects in the animal database.” (page 42)

The document also states that:

“... delayed ossification in rats and mice and reduced fetal body weight and increased fetal death in mice were identified as the critical effects in a substantial database of repeat-dose inhalation studies.” (page 36)

“An RfC of 3 mg/m³ was derived on the basis of effects observed in fetuses after repeated exposure on gestation days 6 to 15 (Tyl et al., 1987). The RfC was based on developmental effects in fetuses reported in a toxicity assay in which maternal

exposure occurred only during gestation.” (page 41)

This appears to meet the criterion in Section 25306(d)(1) that the chemical “is the subject of a report which is published by the authoritative body and which concludes that the chemical causes. . . reproductive toxicity”.

OEHHA has also evaluated the studies cited by U.S. EPA in support of its formal identification of methyl isobutyl ketone as causing developmental toxicity relative to the criteria in Section 25306(g). Based on both the U.S. EPA (2003a) IRIS entry and the Toxicological Review document (U.S. EPA 2003b), and the studies cited in those documents, the criteria for listing methyl isobutyl ketone as known to cause reproductive toxicity by the authoritative bodies mechanism appear to be met.

Request for relevant information: OEHHA is requesting comments as to whether *methyl isobutyl ketone* meets the criteria set forth in the Proposition 65 regulations for authoritative bodies listings.

After reviewing all comments received, OEHHA will determine whether the identified chemical meets the regulatory criteria for administrative listing. If the chemical is determined to meet the listing criteria, OEHHA will proceed with the formal listing process by publishing a Notice of Intent to List.

In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Tuesday May 14, 2013.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.Comments@oehha.ca.gov with “DCI — methyl isobu-

tyl ketone” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita
Office of Environmental Health
Hazard Assessment
P.O. Box 4010, MS-19B
Sacramento, CA 95812-4010
Fax: (916) 324-6511
Street Address: 1001 I Street
Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period.

Optional public forum: Upon request, OEHHA will schedule an informal public forum to provide individuals an opportunity to present oral comments on the possible listing of this chemical. At the forum, the public may discuss the scientific data and other relevant information related to whether the chemical meets the criteria for listing in the regulations.

The request for a public forum must be submitted in writing to Cynthia Oshita of OEHHA via email at Cynthia.Oshita@oehha.ca.gov or to the attention of Cynthia Oshita at the address listed above no later than Friday, April 12, 2013. If a public forum is requested, a notice will be posted on the OEHHA web site at least ten days before the forum date. The notice will provide the date, time and location of the forum. Notices will also be sent to those individuals requesting such notification. You may sign up for electronic notices at: <http://www.oehha.ca.gov/Listservs/default.asp>.

If you have any questions, please contact Ms. Oshita at Cynthia.Oshita@oehha.ca.gov or at (916) 445-6900.

References

Tyl, R. W., K.A. France, L.C. Fisher, I.M. Pritts, T.R. Tyler, R.D. Phillips and E.J. Moran (1987). “Developmental toxicity evaluation of inhaled methyl isobutyl ketone in Fischer 344 rats and CD-1 mice”. *Fundam Appl Toxicol* **8**(3): 310-27.

U.S. EPA (U.S. Environmental Protection Agency) (2003a). Methyl Isobutyl Ketone (MIBK) (CASRN 108-10-1). Integrated Risk Information System. Available online at: <http://www.epa.gov/iris/subst/0173.htm>.

U.S. EPA (U.S. Environmental Protection Agency) (2003b). Toxicological Review of Methyl Isobutyl Ketone; In Support of Summary Information on the Integrated Risk Information System (IRIS). EPA/635/R-03/002. U.S. EPA, Washington DC, March. Available online at: <http://www.epa.gov/iris/toxreviews/0173tr.pdf>.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

REQUEST FOR RELEVANT INFORMATION ON A CHEMICAL BEING CONSIDERED FOR LISTING BY THE AUTHORITATIVE BODIES MECHANISM: TRICHLOROETHYLENE (TCE)

March 15, 2013

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) is requesting information as to whether trichloroethylene (TCE) meets the criteria for listing as a reproductive toxicant under the Safe Drinking Water and Toxic Enforcement Act of 1986.¹ This action is being proposed under the authoritative bodies listing mechanism.²

Background on listing via the authoritative bodies mechanism: A chemical must be listed under Proposition 65³ and its implementing regulations when two conditions are met:

- 1) An authoritative body formally identifies the chemical as causing reproductive toxicity (Section 25306(d)⁴).
- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(g)).

However, the chemical is not listed if scientifically valid data which were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(h)).

The U.S. Environmental Protection Agency (U.S. EPA) is one of several institutions designated as authoritative for the identification of chemicals as causing reproductive toxicity (Section 25306(l)).

OEHHA is the lead agency for Proposition 65 implementation.⁵ After an authoritative body has made a determination about a chemical, OEHHA evaluates

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs. section 25306.

³ Health and Safety Code section 25249.8(b).

⁴ All referenced sections are from Title 27 of the Cal. Code of Regulations.

⁵ Health and Safety Code section 25249.12 and Title 27, Cal. Code of Regs., section 25102(o).

whether listing under Proposition 65 is required using the criteria contained in the regulations.

OEHHA's determination: TCE appears to meet the criteria for listing as known to the State to cause repro-

ductive toxicity under Proposition 65, based on findings of the U.S. EPA in their document, as indicated in the table below.

Chemical	CAS No.	Endpoints	Reference	Chemical Use
Trichloroethylene (TCE)	79-01-6	Male reproductive and developmental toxicity	U.S. EPA (2011a and 2011b)	Used mainly in vapor degreasing of metal parts, also used as a solvent in the textile industry and is found in consumer products such as paint removers and adhesives.

Formal identification and sufficiency of evidence:

In 2011, U.S. EPA updated the toxicological characterization of TCE in its Integrated Risk Information System (IRIS) entry for the chemical (U.S. EPA, 2011a). In support of the IRIS entry, a comprehensive toxicological review and summary of the available toxicological data was published (U.S. EPA, 2011b). In that document, the authoritative body reviews the scientific evidence of male reproductive and developmental toxicity and, on that basis, provides its conclusions about the potential for TCE to cause male reproductive and developmental toxicity.

Male Reproductive Toxicity

The U.S. EPA Toxicological Review (2011b) states that:

“The adverse effects that have been observed in both male humans and male animal models include altered sperm count, morphology, or motility (Kumar et al., 2001 b; Veeramachaneni et al., 2001; Kumar et al., 2000a; Kumar et al., 2000b; Chia et al., 1996; Rasmussen et al., 1988; George et al., 1985; Land et al., 1981); decreased libido or copulatory behavior (Veeramachaneni et al., 2001; George et al., 1986; Zenick et al., 1984; Saihan et al., 1978; El Ghawabi et al., 1973; Bardodej and Vyskocil, 1956); alterations in serum hormone levels (Veeramachaneni et al., 2001; Kumar et al., 2000a; Goh et al., 1998; Chia et al., 1997); and reduced fertility (George et al., 1986). However, other studies in humans did not see evidence of altered sperm count or morphology (Rasmussen et al., 1988) or reduced fertility (Forkert et al., 2003; Sallmen et al., 1998), and some animal studies also did not identify altered sperm measures (Xu et al., 2004; Cosby and Dukelow, 1992; George et al., 1986; Zenick et al., 1984). Additional adverse effects observed in animals include histopathological lesions of the testes (Kumar et al., 2001b, Kumar et al., 2000b; George et al., 1986) or epididymides (Kan et al.,

2007; Forkert et al., 2002) and altered in vitro spermocyte binding and/or in vivo fertilization for TCE and/or its metabolites (DuTeaux et al., 2004a; Xu et al., 2004) (page 4–488, citations in U.S. EPA Toxicological Review (2011 b)).

“In spite of the preponderance of studies demonstrating effects on sperm parameters, there is an absence of overwhelming evidence in the database of adverse effects of TCE on overall fertility in the rodent studies. That is not surprising, however, given the redundancy and efficiency of rodent reproductive capabilities. Nevertheless, the continuous breeding reproductive toxicity study in rats (George et al., 1986) did demonstrate a trend towards reproductive compromise (i.e., a progressive decrease in the number of breeding pairs producing third, fourth, and fifth litters).” (page 4–490, citations in U.S. EPA Toxicological Review (2011b)).

Under the Section of the U.S. EPA Toxicological Review (2011b) titled “Major Conclusions in the Characterization of Hazard and Dose Response”, the authoritative body concludes that:

“Together, the human and laboratory animal data support the conclusion that TCE exposure poses a potential hazard to the male reproductive system” (page 6–9).

The document also states that:

“The human epidemiological findings and animal study evidence consistently indicate that TCE exposures can result in adverse reproductive outcomes. . . . In animal studies, . . . there is strong and compelling evidence for adverse effects of TCE exposure on male reproductive system and function” (page 4–487).

This appears to meet the criterion in Section 25306(d)(1) that the chemical “is the subject of a report which is published by the authoritative body and which

concludes that the chemical causes . . . reproductive toxicity”.

Developmental Toxicity

The critical effects identified as the basis for the chronic oral reference dose (RfC) in the TCE IRIS entry (U.S. EPA, 2011a) and the Toxicological Review (U.S. EPA, 2011b) include developmental toxicity manifested as increased fetal cardiac malformations in rats and developmental immunotoxicity in mice following prenatal exposure. This appears to meet the criterion in Section 25306(d)(1) that the chemical “has otherwise been identified as causing . . . reproductive toxicity by the authoritative body in a document that indicates that such identification is a final action”.

Under the Section of the U.S. EPA Toxicological Review (2011b) titled “Major Conclusions in the Characterization of Hazard and Dose Response”, the authoritative body concludes that:

“[B]ased on weakly suggestive epidemiologic data and fairly consistent laboratory animal data, it can be concluded that TCE exposure poses a potential hazard for prenatal losses and decreased growth or birth weight of offspring.” (page 6–10).

“[B]ased on weakly suggestive, but overall consistent, epidemiologic data, in combination with evidence from experimental animal and mechanistic studies, it can be concluded that TCE exposure poses a potential hazard for congenital malformations, including cardiac defects, in offspring” (page 6–11).

This appears to meet the criterion in Section 25306(d)(1) that the chemical “is the subject of a report which is published by the authoritative body and which concludes that the chemical causes . . . reproductive toxicity”.

Scientific evidence of developmental toxicity reviewed by the authoritative body in support of these conclusions includes a number of human and animal studies. With regard to prenatal loss and effects on growth, the U.S. EPA Toxicological Review (2011b) noted that some occupational and environmental epidemiological studies reported associations between parental exposure to TCE and spontaneous abortion or perinatal death, and decreased birth weight or SGA [small for gestational age], although other studies reported mixed or null findings, and that multiple well-conducted studies in rats and mice show analogous effects of TCE exposure; i.e., pre- or postimplantation losses, increased resorptions, perinatal death, and decreased birth weight. On that basis, U.S. EPA concluded that TCE exposure poses a potential hazard for prenatal losses and decreased growth or birth weight of offspring, based on weakly suggestive epidemiologic data and fairly consistent laboratory animal data.

With regard to malformations, the U.S. EPA Toxicological Review (2011b) noted that epidemiological studies, while individually limited, as a whole show relatively consistent elevations, some of which were statistically significant, in the incidence of cardiac defects in TCE-exposed populations compared to reference groups. In laboratory animal models, avian studies were the first to identify adverse effects of TCE exposure on cardiac development, and the initial findings have been confirmed multiple times. Additionally, administration of TCE and its metabolites, TCA and DCA, in maternal drinking water during gestation has been reported to induce cardiac malformations in rat fetuses.

OEHHA evaluated the studies cited by U.S. EPA in support of its formal identification of TCE as causing male reproductive and developmental toxicity relative to the criteria in Section 25306(g). Based on the U.S. EPA Toxicological Review document (2011b), and the studies cited in that document, the criteria for listing TCE as known to cause reproductive toxicity by the authoritative bodies mechanism appear to be met.

Request for relevant information: OEHHA is requesting comments as to whether *trichloroethylene* meets the criteria set forth in the Proposition 65 regulations for authoritative bodies listings.

After reviewing all comments received, OEHHA will determine whether the identified chemical meets the regulatory criteria for administrative listing. If the chemical is determined to meet the listing criteria, OEHHA will proceed with the formal listing process by publishing a Notice of Intent to List.

In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Tuesday May 14, 2013.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.Comments@oehha.ca.gov with “DCI — trichloroethylene” in the subject line.

Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita
Office of Environmental Health
Hazard Assessment
P.O. Box 4010, MS-19B
Sacramento, CA 95812-4010
Fax: (916) 324-6511
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Sacramento, California 95814

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Optional public forum: Upon request, OEHHA will schedule an informal public forum to provide individuals an opportunity to present oral comments on the pos-

sible listing of this chemical. At the forum, the public may discuss the scientific data and other relevant information related to whether the chemical meets the criteria for listing in the regulations.

The request for a public forum must be submitted in writing to Cynthia Oshita of OEHHA via email at Cynthia.Oshita@oehha.ca.gov or to the attention of Cynthia Oshita at the address listed above no later than Friday, April 12, 2013. If a public forum is requested, a notice will be posted on the OEHHA web site at least ten days before the forum date. The notice will provide the date, time and location of the forum. Notices will also be sent to those individuals requesting such notification. You may sign up for electronic notices at: <http://www.oehha.ca.gov/Listservs/default.asp>.

If you have any questions, please contact Ms. Oshita at Cynthia.Oshita@oehha.ca.gov or at (916) 445-6900.

References

U.S. EPA ((U.S. Environmental Protection Agency) (2011a). Trichloroethylene (CASRN 79-01-6). Integrated Risk Information System. Available online at: <http://www.epa.gov/iris/subst/0199.htm>.

U.S. EPA (U.S. Environmental Protection Agency) (2011b). Toxicological Review of Trichloroethylene (CAS No. 79-01-6); In Support of Summary Information on the Integrated Risk Information System (IRIS). EPA/635/R-09/011F U.S. EPA, Washington D.C., September 2011. Available online at: <http://www.epa.gov/iris/toxreviews/0199tr.pdf>.

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Bill Gausewitz
Michelman & Robinson, LLP
915 L Street, Ste. 1110
Sacramento, California 95814

Agency contact:

Caroll Mortensen, Director
Department of Resources Recycling and Recovery
801 K Street, MS 19-01
Sacramento, California 95814

Please note the following timelines:

Publication of Petition in Notice Register:	March 15, 2013
Deadline for Public Comments:	April 15, 2013
Deadline for Agency Response:	April 29, 2013
Deadline for Petitioner Rebuttal:	No later than 15 days after receipt of the agency's response
Deadline for OAL Decision:	July 15, 2013

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.

**ACCEPTANCE OF PETITION
TO REVIEW ALLEGED
UNDERGROUND REGULATIONS**

OFFICE OF ADMINISTRATIVE LAW

**ACCEPTANCE OF PETITION TO REVIEW
ALLEGED UNDERGROUND REGULATIONS**

**(Pursuant to title 1, section 270, of the
California Code of Regulations)**

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Elizabeth Heidig, Senior Counsel
Office of Administrative Law
300 Capitol Mall, Ste. 1250
Sacramento, CA 95814

**DEPARTMENT OF RESOURCES
RECYCLING AND RECOVERY**

CALIFORNIA OFFICE OF
ADMINISTRATIVE LAW

CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND
RECOVERY (CalRecycle)

NOTICE OF MAY 13, 2011
TO ALL CERTIFIED RECYCLING
CENTERS

**PETITION FOR DETERMINATION
PURSUANT TO CALIFORNIA GOVERNMENT
CODE § 11340.5**

1) INTRODUCTION

This petition is submitted to the Office of Administrative Law (OAL) requesting a determination pursuant to California Government Code § 11340.5 of whether

the above-captioned communication (the Notice¹) contains underground regulations as defined by title 10, Cal Code Regs § 250(a). The Notice purports to state the “specific responsibilities” of certified recycling centers, pursuant to statute and regulation.

The Notice lists eleven “indicators” that a beverage container being presented to the recycling center for redemption “is not from a legitimate source.” It establishes the standard that “if [the recycling center] encounter[s] one or more of the indicators and pay[s] CRV for the load, [the center] may be held responsible for knowingly redeeming non-CRV material”, an act which the Notice says constitutes a crime.

The Notice also lists four “Additional Items to Note”. These “additional items” are, in fact, explicit rules which CalRecycle asserts that all certified recycling centers are required to obey. The rules and standards issued and implemented through the Notice are underground regulations in violation of Section 11340.5 of the California Government Code.

An underground regulation is invalid and unenforceable². By issuing these underground regulations CalRecycle is illegally attempting to implement regulations which are void, and therefore unenforceable. If CalRecycle wishes to implement the rules that it is attempting to impose through these underground regulations it must do so within the scope of its statutory authority³ and must comply with the procedural and substantive requirements of the Administrative Procedure Act (APA), found in California Government Code⁴ sections 11340 *et seq.*

This petition does not ask for a determination by OAL regarding CalRecycle’s authority to issue the challenged underground regulation. Such a determination is beyond the scope of a petition submitted pursuant to Gov. Code § 11340.5. Any formal evaluation of the scope of the Department’s authority must occur in the course of a formal APA rulemaking. By issuing these rules illegally, without going through formal APA rulemaking, CalRecycle has avoided scrutiny regarding its legal authority, if any, to impose these requirements.

¹ A copy of the Notice is attached as Exhibit 1.

² A “regulation or order of repeal may be declared to be invalid for a substantial failure to comply with [the rulemaking chapter of the APA]” Cal Gov Code § 11350.

“[W]e conclude that DLSE’s policy for determining whether to apply IWC wage orders to maritime employees constitutes a regulation and is void for failure to comply with the APA.” *Tidewater Marine Western, Inc. v. Bradshaw*, 14 Cal. 4th 557, 576 (Cal. 1996).

³ “Each regulation adopted, to be effective, shall be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.” Cal Gov Code § 11342.1.

⁴ Unless identified otherwise, all section references in this petition refer to the California Government Code.

Only by requiring CalRecycle to obey the APA may its authority, or lack of authority, be revealed.

2) THE PURPORTED UNDERGROUND REGULATIONS

On May 13, 2011, CalRecycle distributed the Notice to “All Certified Recycling Centers”. The notice is posted on the CalRecycle web site at <http://www.calrecycle.ca.gov/BevContainer/Notices/2011/IllegalPmt.pdf>.

The Notice purports to “point out” the “specific responsibilities” imposed upon recycling centers by certain unspecified statutes and regulations. The Notice also specifies four “Additional Items of Note”. Included within these “Additional Items” are the purported rules that A) “it is illegal for recyclers to facilitate the splitting of large loads”; B) “any amount of out-of-state containers in a load deems the entire load ineligible; C) Inaccurate or fabricated vehicle or driver license information on consumer purchase receipts cause the transaction to be invalid; and D) specifically-named documents “are the only acceptable forms of identification” for compliance with a particular regulation.

The Notice also attempts to establish a requirement that any certified recycling center must follow specific reporting requirements “if you know of a recycling center that is currently making or facilitating illegal payments . . . please contact” CalRecycle. While this requirement is phrased as a request (“please contact”), in practice CalRecycle treats this as a mandatory requirement by imposing sanctions against any center that does not make the required reports.

The reporting requirement, the four individual rules identified above as A) – D) and the standards identifying “indicators” which determine that a load of material presented for recycling “is not from a legitimate source” are distinct regulations imposed by the Notice. Collectively they are all underground regulations, established by the Notice in violation of section 11340.5 of the Government Code.

3) AGENCY ACTIONS DEMONSTRATING THAT CALRECYCLE HAS ISSUED, USED, ENFORCED, OR ATTEMPTED TO ENFORCE THE PURPORTED UNDERGROUND REGULATIONS

The Notice is published on letterhead identifying CalRecycle as the source. By its own terms it is applicable to “All Certified Recycling Centers.” It is posted on the CalRecycle web site. By any reasonable interpretation, it has been “issued” by CalRecycle in violation of section 11340.5.

Furthermore, at least one licensed recycling center has been subjected to enforcement actions by

CalRecycle based explicitly upon “Failure to follow directions and procedures of the Department. Specifically, failure to follow May 13, 2011 Notice regarding suspicious volumes of material and failing to contact Joe Preciado”. The Notice identifies Joe Preciado as one of two specific persons who must be contacted if the recycling center “know[s] of a recycling center that is currently making or facilitating illegal payments of CRV.” A document from CalRecycle entitled “Notice of Action and Prepayment Inspection Status”, which was issued by CalRecycle to impose regulatory sanctions upon a certified recycler is attached as Exhibit 2⁵. This document specifically sanctions the recycling center for “failure to follow May 13, 2011 Notice.” Through this action CalRecycle has clearly “enforced” the underground regulation.

The Notice is published on CalRecycle letterhead. It is addressed by CalRecycle to “All Certified Recycling Centers.” It is posted on the CalRecycle web site. CalRecycle imposes regulatory sanctions against recycling centers for “failure to follow May 13, 2011 notice”. There can be no doubt that CalRecycle has “issued, used, enforced, or attempted to enforce the purported underground regulations.”

4) THE LEGAL BASIS FOR BELIEVING THAT THE ALLEGED UNDERGROUND REGULATIONS ARE REGULATIONS AS DEFINED IN SECTION 11342.600 OF THE GOVERNMENT CODE AND THAT NO EXPRESS STATUTORY EXEMPTION TO THE REQUIREMENTS OF THE APA IS APPLICABLE

4a) The challenged underground regulations satisfy the legal definition of “regulation” and are not exempt from APA requirements. The APA defines a regulation as “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” Cal Gov Code § 11342.600. The California Supreme Court has refined this definition as follows:

⁵ Although the document is presumably public record pursuant to the California Public Records Act (Sections 6250–6276.48), personally identifiable information has been redacted to protect the identity of the persons against whom CalRecycle imposed sanctions. Should OAL require an unredacted copy of this document for purposes of demonstrating that the purported underground regulation has been enforced by CalRecycle, petitioner will, upon request, attempt to obtain an unredacted copy from CalRecycle pursuant the the Public Records Act and will provide it to OAL.

A regulation subject to the APA thus has two principal identifying characteristics. (See *Union of American Physicians & Dentists v. Kizer* (1990) 223 Cal. App. 3d 490, 497 [272 Cal. Rptr. 886] [describing two-part test of the Office of Administrative Law].) First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided (*Roth v. Department of Veterans Affairs* (1980) 110 Cal. App. 3d 622, 630 [167 Cal. Rptr. 552].) Second, the rule must “implement, interpret, or make specific the law enforced or administered by [the agency], or . . . govern [the agency’s] procedure” (Gov. Code, § 11342, subd. (g).) *Tidewater Marine Western, Inc. v. Bradshaw*, 14 Cal. 4th 557, 571 (Cal. 1996)

In order to conclude that the purported underground regulations satisfy the legal standard, therefore, it must be demonstrated that each of them is intended to apply generally and that each implements, interprets or makes specific a more general law. Each rule meets these standards.

A third requirement of § 11340.5 is that the challenged regulation be subject to APA rulemaking requirements. Pursuant to Gov. Code § 11346, any law exempting a regulation from APA requirements “must do so expressly.” The challenged underground regulations, therefore, are required to be adopted pursuant to APA rulemaking requirements unless they are subject to an express statutory exemption from those requirements. They are not.

4b) The Challenged Underground Regulations are Intended to Have General Application. Each of the underground regulations identified in Section 2), above, is intended to apply generally. Each is contained in the Notice which is addressed to “All Certified Recycling Centers”. The Notice contains numerous phrases⁶ clearly indicating that it is directed generally at all recycling centers rather than to any specific center or category of centers.

4c) The Challenged Underground Regulations Attempt to Implement, Interpret, or Make Specific the Laws Administered by Cal Recycle. Each of the underground regulations in the Notice is an apparent attempt to implement, interpret, or make specific the laws which CalRecycle is required to enforce. The intent that the Notice is an element of enforcing the law is, in fact, stated explicitly in the Notice. The first paragraph of the

⁶ Such phrases include “It has always been the responsibility of certified recycling centers to prevent the illegal redemption of ineligible material” and “our combined efforts to combat beverage container recycling fraud”.

Notice tells the certified recycling centers that “You and your employees are the first line of defense against fraud in this program.” The penultimate paragraph of the Notice refers to “our combined efforts to combat beverage container recycling fraud.” CalRecycle is expressly stating that the intent of the Notice is to implement laws intended to address fraud.

Each of the underground regulations in the Notice contains elements demonstrating that it is intended to implement, interpret, or make specific the laws administered by CalRecycle. Consider the “Indicators that the beverage container . . . is not from a legitimate source.” California Public Resources Code § 14538(a)(3) makes it mandatory for a certified recycling center to “accept and pay the refund value for all empty beverage containers, regardless of type.” Subdivisions (a)(5) and (a)(6) of this section prohibit a center from paying refunds on containers that the center “knew or should have known” came from out of the state.

By specifying various indicators “that the beverage container material being presented to you is not from a legitimate source” CalRecycle is apparently trying to establish criteria that a recycling center “should have known” indicate that the material came from out of state. However, demonstrating which specific statutes an underground regulation attempts to implement, interpret, or make specific is not necessary for demonstrating that the challenged rule is an attempt to provide specificity to the law. The “indicators” specified in the Notice are found nowhere else in statute or regulation. Whatever else they may be, they provide express and specific rules demonstrating without doubt that they are intended by CalRecycle to “make specific” the laws that it administers.

4d) The challenged underground regulation is not subject to any exemption from the rulemaking requirements of the APA. Pursuant to section 11346, any statute exempting a regulation from the rulemaking requirements of the APA “must do so expressly.” There is no apparent express exemption in governing law permitting adoption of the rules stated in the Notice without complying with the rulemaking requirements of the APA. The general exemptions of Government Code § 11340.9 are not applicable. CalRecycle has not identified any statutory authority pursuant to which it has promulgated this rule. Without the identification of authority and reference statutes, it is difficult to demonstrate the non-existence of an express exemption definitively. The Petitioner is a California lawyer familiar with both the APA and the Public Resources Code who knows of no express statutory exemption and who asserts that no such express exemption exists.

Any claim that the Notice is subject to an express exemption amounts to an affirmative defense to the general rule that a regulation must be adopted pursuant to

APA rulemaking. Therefore, the burden is on CalRecycle to demonstrate that the Notice is exempt from APA rulemaking requirements, if that is the case. Rather than presuming that this purported underground regulation is expressly exempt from APA rulemaking, OAL should accept this petition and offer CalRecycle the opportunity to defend the regulation on that basis, should it choose to do so.

5) INFORMATION DEMONSTRATING THAT THE PETITION RAISES AN ISSUE OF CONSIDERABLE PUBLIC IMPORTANCE REQUIRING PROMPT RESOLUTION

There are at least three issues of considerable public importance raised by this petition.

Issue #1: Public participation in the rulemaking applicable to recycling centers. A fundamental purpose of the rulemaking requirements of the APA is to protect the right of interested members of the public participate in developing the laws under which they are required to live. By adopting the underground regulations contained in the Notice without going through APA rulemaking, CalRecycle has denied this right to the regulated public.

Issue #2: Due Process for Recycling Centers. By establishing and enforcing the underground regulations contained in the Notice CalRecycle has created a system whereby its investigators may impose regulatory sanctions upon recycling centers for alleged violation of standards which are void and which have no force of law. As shown by the Notice of Action and Prepayment Inspection Status, these regulatory sanctions are imposed by bureaucratic decree, allowing no due process or right of appeal. Only by subjecting these underground regulations to the scrutiny provided by APA rulemaking can this be corrected.

Issue #3: The Scope of the Department’s Legal Authority. The failure to employ the rulemaking process means that the scope of authority that CalRecycle may have in this area of regulation has never been subjected to public scrutiny. There is a legitimate legal question as to whether the underground regulations within the Notice are within CalRecycle’s statutory authority.

Whether or not CalRecycle has the legal authority to implement the rules it has imposed through underground regulation is a significant legal question with far-reaching implications. By enacting the challenged rules as underground regulations, CalRecycle has avoided all scrutiny with respect to its authority. It is entirely possible that CalRecycle is implementing rules which exceed its authority in violation of section 11342.1 of the APA or that the rules are not reasonably necessary to carry out the purpose of the statutes Cal-

Recycle administrators in violation of section 11342.2. Only by subjecting these rules to formal rulemaking pursuant to the APA may the Department's authority be properly evaluated.

6) CONCLUSION

The underground regulations contained in the Notice issued and enforced by CalRecycle constitute a significant exercise of regulatory power over recycling centers. This power has been exercised through regulations which have never been subjected to the scrutiny and public comment that is a central purpose of APA rulemaking. These rules are not subject to any express statutory exemption which exempts them from the rulemaking requirements of the APA. The petitioner respectfully requests that OAL accept this petition so that the challenged regulations may be evaluated pursuant to the APA.

7) CERTIFICATIONS

I certify that I have submitted copies of this petition and all attachments to the state agency which has issued, used, enforced, or attempted to enforce the purported underground regulation. The copies were submitted as follows:

Via email in PDF format to: Caroll Mortensen, Director CA Department of Resources Recycling and Recovery Caroll.Mortensen@CalRecycle.com

Elliott Block, General Counsel CA Department of Resources Recycling and Recovery Elliot.Block@CalRecycle.com

I certify that all of the above information is true and correct to the best of my knowledge.

DATED: November 26, 2012

MICHELMAN & ROBINSON, LLP

By: /s/ WILLIAM L. GAUSEWITZ

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# 2013-0122-02 BOARD OF FORESTRY AND FIRE PROTECTION Defensible Space Regulations, 2012

This rulemaking action repeals and adds sections to Title 14 of the California Code of Regulations to implement section 4291 of the Public Resources Code by specifying rules for the creation of fire-defensible space around buildings and structures within State Responsibility Areas. More specifically, the rulemaking action specifies differing rules for vegetation clearance and maintenance in zones within a circumference of 30 feet from a building or structure and within a circumference of 30 to 100 feet around a building or structure. The Office of Administrative Law (OAL) has approved the repeal of existing section 1299 and the adoption of sections 1299.01, 1299.02, 1299.03, 1299.03(a), 1299.03(b)(1) and most of the document incorporated by reference therein, 1299.03(b)(2)(B), 1299.03(b)(2)(C), 1299.03(c), 1299.04, and 1299.05. OAL disapproves the adoption of section 1299.03(b)(2)(A) and a portion of the document incorporated by reference by section 1299.03(b)(1) for failure to meet the clarity standard of the Administrative Procedure Act. Government Code sections 11349.1(a)(3) and 11349(c) and Title 1 California Code of Regulations section 16. Pursuant to Government Code section 11349.4, the Board of Forestry and Fire Protection may resubmit to OAL for review proposed section 1299.03(b)(2)(A) within 120 days of receipt of the Decision of Disapproval from the OAL.

Title 14 California Code of Regulations ADOPT: 1299.01, 1299.02, 1299.03, 1299.03(a), 1299.03(b)(1) and most of the document incorporated therein by reference, 1299.03(b)(2)(B), 1299.03(b)(2)(C), 1299.03(c), 1299.04, 1299.05 REPEAL: 1299 Filed 03/06/2013 Effective 07/01/2013 Agency Contact: Eric Huff (916) 653-8031

File# 2013-0122-03

BOARD OF FORESTRY AND FIRE PROTECTION
 State Responsibility Area Fire Prevention Benefit Fees, 2012

This rulemaking action makes permanent the emergency regulations which implement Assembly Bill X1 29, Chapter 8 of 2011. The regulations define necessary terms for the assessment of fire prevention activity fees on habitable structures located in State Responsibility Areas. The regulations also specify, among other things, an appeal process which property owners may use to challenge assessed fees, and a fee reduction for habitable structures located in both a State Responsibility Area and a local fire protection district.

Title 14
 California Code of Regulations
 ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8
 Filed 03/06/2013
 Effective 07/01/2013
 Agency Contact: Eric Huff (916) 653-8031

File# 2013-0114-02

BOARD OF OPTOMETRY
 Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

This rulemaking action by the Board of Optometry amends section 1575 of title 16 of the California Code of Regulations and the incorporated "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" (form DG-4), along with two other related forms (DG-1 and DG-QR1). These changes were adopted to implement legislation resulting from Senate Bill 1441 (Ch. 548, Stats. 2008), which directed a newly-formed Substance Abuse Coordination Committee to establish a standardized substance abuse monitoring program.

Title 16
 California Code of Regulations
 AMEND: 1575
 Filed 02/27/2013
 Effective 04/01/2013
 Agency Contact: Andrea Leiva (916) 575-7182

File# 2013-0114-01

BUREAU OF AUTOMOTIVE REPAIR
 Smog Check Inspectors and Repair Technicians Application

The Bureau of Automotive Repair is amending its existing Application for Initial Smog Check Inspector and/or Smog Check Repair Technician License, which is incorporated by reference into section 3340.29 of title 16. This amendment will clarify one's legal right to sub-

stitute comparable military training for other prescribed Smog Check training requirements as articulated in Health & Safety Code section 44031.5. It will also now reflect recent requirements mandated by Business & Professions Code section 494.5.

Title 16
 California Code of Regulations
 AMEND: 3340.29
 Filed 02/27/2013
 Agency Contact: Vince Somma (916) 403-0159

File# 2013-0131-05

DEPARTMENT OF CORRECTIONS AND REHABILITATION
 HOPE Pilot Program

This pilot program went into effect 10/11/2010 and expired 10/11/2012 pursuant to Penal Code section 5058.1. The HOPE pilot program allowed the Department to implement and evaluate an "immediate sanction" process to address substance abuse and other violations of parole by California parolees. The program was intended to assess whether or not frequent drug testing and immediate short-term incarceration for drug use and/or other violations reduces the recurrence of drug use and/or other violation behaviors by parolees assigned to the study group. Because the pilot program lapsed by operation of law, the Department is repealing section 3999.10 to remove the pilot program from the California Code of Regulations as a change without regulatory effect.

Title 15
 California Code of Regulations
 REPEAL: 3999.10
 Filed 03/04/2013
 Agency Contact: Josh Jugum (916) 445-2228

File# 2013-0117-04

DEPARTMENT OF FOOD AND AGRICULTURE
 European Grapevine Moth Interior Quarantine

This rulemaking action by the California Department of Food and Agriculture (CDFA) amends title 3, section 3437, of the California Code of Regulations relating to the European Grapevine Moth Interior Quarantine. Specifically, this rulemaking amends the area under quarantine in Napa, Solano, and Sonoma counties set forth in subdivision (b)(1) of section 3437.

Title 3
 California Code of Regulations
 AMEND: 3437(b)
 Filed 02/28/2013
 Effective 04/01/2013
 Agency Contact: Stephen S. Brown (916) 654-1017

File# 2013-0130-03
DEPARTMENT OF FOOD AND AGRICULTURE
Asian Citrus Psyllid Interior Quarantine

The Department of Food and Agriculture submitted this timely certificate of compliance action to make permanent the emergency amendment to title 3, California Code of Regulations, section 3435(b) made in OAL File No. 2012-0727-01E. The emergency action expanded the interior quarantine area of Riverside County for the Asian citrus psyllid by approximately 832 square miles.

Title 3
California Code of Regulations
AMEND: 3435(b)
Filed 02/27/2013
Effective 02/27/2013
Agency Contact: Stephen S. Brown (916) 654-1017

File# 2013-0125-02
DEPARTMENT OF INSURANCE
Conflict of Interest Code

This is a Conflict of Interest Code filing that has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and for printing only.

Title 10
California Code of Regulations
AMEND: 2690, 2690.1, 2690.2
Filed 03/04/2013
Effective 04/03/2013
Agency Contact:
Lisbeth Landsman-Smith (916) 492-3561

File# 2013-0129-01
DEPARTMENT OF REHABILITATION
Repeal of Rehabilitation Appeals Board

The Department of Rehabilitation (Department) submitted this timely certificate of compliance action to make permanent the amendments made to eleven title 9 regulations in OAL File Nos. 2012-0717-01EFP and 2013-0109-01EFP. The amended regulations pertain to requesting administrative reviews and fair hearings, filing appeals, and related requirements, procedures, and timelines for an applicant or client of the Department's Vocational Rehabilitation or Independent Living Services programs. The purpose of these amendments is to make the regulations consistent with recent amendments to the Welfare and Institutions Code made by SB 1041 (Stats. 2012, ch. 47) that, among other things, eliminated the Rehabilitation Appeals Board, which existed within the Department for purposes of hearing appeals on actions taken by the Department on applications for Department services.

Title 9
California Code of Regulations
AMEND: 7141.5, 7143, 7227, 7350, 7351, 7353.6, 7354, 7355, 7356, 7357, 7358
Filed 03/05/2013
Effective 03/05/2013
Agency Contact: Shelly Risbry (916) 445-4466

File# 2013-0123-02
FISH AND GAME COMMISSION
Use of Dogs for Pursuit/Take of Mammals or for Dog Training

This change without regulatory effect by the Fish and Game Commission amends 14 CCR sections 265, 365, 366, 478, 708.12, and 708.16 with regard to the use of dogs to pursue bear, bobcat and other listed mammals, and makes additional non-substantive changes to correct grammatical and spelling errors, renumbering as needed, and to add and remove authority and reference sections.

Title 14
California Code of Regulations
AMEND: 265, 365, 366, 478, 708.12, 708.16
Filed 03/05/2013
Agency Contact: Jon Snellstrom (916) 654-9868

File# 2013-0123-03
FISH AND GAME COMMISSION
Permits to Take Fully Protected Animals for Scientific Purposes

This change without regulatory effect by the Fish and Game Commission amends 14 CCR Section 670.7(e) and (f), transferring the authority to issue scientific collecting permits for fully protected species from the Fish and Game Commission to the Department of Fish and Game.

Title 14
California Code of Regulations
AMEND: 670.7 (e) & (f)
Filed 02/27/2013
Agency Contact:
Anita Biedermann (916) 653-1803

File# 2013-0122-01
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD
Horizontal Pull Saw (Radial Arm Saw) Guarding

The California Occupational Safety and Health Standards Board is amending their Horizontal Pull Saw regulation to be consistent with Federal OSHA regulations (29 CFR 1910.213 (h)(1).) This rulemaking action requires that radial arm saw blades be completely guarded for operator protection.

Title 8
 California Code of Regulations
 AMEND: 4309
 Filed 02/28/2013
 Effective 04/01/2013
 Agency Contact: Marley Hart (916) 274-5721

File# 2013-0226-02
**OFFICE OF ENVIRONMENTAL HEALTH
 HAZARD ASSESSMENT**

Chemicals Required by State or Federal Law to Have
 Been Tested for Potential to Cause Cancer or Reproductive
 Toxicity

This action amends the list of chemicals required by
 state or federal law to have been tested for the potential
 to cause cancer or reproductive toxicity, but which have
 not been adequately tested. This action is exempt from
 review by the Office of Administrative Law pursuant to
 Health and Safety Code section 25249.8.

Title 27
 California Code of Regulations
 AMEND: 27000
 Filed 03/04/2013
 Effective 03/01/2013
 Agency Contact: Cynthia Oshita (916) 322-2068

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN October 10, 2012 TO
 March 6, 2013**

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 1

11/13/12 AMEND: 1, Appendix A

Title 2

02/21/13 AMEND: 599.506
 02/14/13 ADOPT: 1896.71, 1896.76, 1896.77,
 1896.78, 1896.81, 1896.82, 1896.83,
 1896.84, 1896.88, 1896.91, 1896.92,
 1896.95, 1896.96, 1896.97 AMEND:
 1896.60, 1896.61, 1896.62, 1896.70,
 1896.72, 1896.73, 1896.74, 1896.75,
 1896.80, 1896.90, 1896.99.100,
 1896.99.120 REPEAL: 1896.63,
 1896.64, 1896.85, 1896.98

01/31/13 AMEND: 649.28
 01/09/13 ADOPT: 18756
 01/08/13 AMEND: 18723, 18730
 01/07/13 AMEND: 18545, 18703.4, 18940.2
 01/07/13 AMEND: 18705.5
 01/02/13 AMEND: 22500, 22501, 22502, 22503,
 22505, 22506, 22508, 22509 REPEAL:
 22504, 22507, 22510, 22511, 22512,
 22513, 22514, 22515, 22516, 22517,
 22518, 22519
 12/31/12 ADOPT: 1859.97 AMEND: 1859.2,
 1859.90.2
 12/28/12 AMEND: 18410, 18425, 18435,
 18465.1, 18550 REPEAL: 18539
 12/27/12 AMEND: 649.7
 12/26/12 ADOPT: 7294.0, 7294.2 AMEND:
 7293.5, 7293.6, 7293.7, 7293.8, 7293.9,
 7294.0 (renumbered to 7294.1),
 7294.1(renumbered to 7294.3), 7294.2
 (renumbered to 7294.4)
 12/24/12 REPEAL: 60020, 60025, 60030, 60040,
 60045, 60050, 60055, 60100, 60110,
 60200
 12/11/12 AMEND: 649.15
 12/06/12 AMEND: 1859.2, 1859.90.2
 11/30/12 ADOPT: 7291.4, 7291.7, 7291.14,
 7291.18 AMEND: 7291.2, 7291.3,
 7291.4 and renumber 7291.5, 7291.5 and
 renumber 7291.6, 7291.6 and renumber
 7291.8, 7291.7 and renumber 7291.9,
 7291.9 and renumber 7291.10, 7291.10
 and renumber 7291.17, 7291.11,
 7291.12, 7291.13, 7291.15, 7291.16
 REPEAL: 7291.8, 7291.14
 11/29/12 ADOPT: 558.1
 11/28/12 AMEND: 54100
 11/09/12 ADOPT: 599.945.4 AMEND: Article
 27.5 heading
 11/08/12 AMEND: 18723
 11/06/12 REPEAL: 56600
 11/06/12 REPEAL: 52000
 11/06/12 REPEAL: 52300
 11/01/12 ADOPT: 1859.95.1 AMEND: 1859.2,
 1859.95
 10/23/12 AMEND: 1859.2, 1859.71.6, 1859.77.4,
 1859.107, 1859.193, 1859.194, 1859.197
 10/22/12 ADOPT: 599.944, 599.946, 599.947
 10/18/12 AMEND: 1575
 10/18/12 ADOPT: 577, 578
 10/17/12 AMEND: 20804

Title 3

02/28/13 AMEND: 3437(b)
 02/27/13 AMEND: 3435(b)

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02/25/13 ADOPT: 1180.24 AMEND: 1180.1,
1180.3.2, 1180.20 REPEAL: 1180.24
11/15/12 AMEND: 3435(b)
10/29/12 ADOPT: 1352.4 AMEND: 1351, 1358.4
10/23/12 ADOPT: 3639
10/23/12 ADOPT: 3439

Title 4

02/11/13 AMEND: 10325
02/11/13 AMEND: 8072
02/07/13 ADOPT: 7100, 7101, 7102, 7103, 7104,
7105, 7106, 7107, 7108, 7109, 7110,
7111, 7112
02/04/13 AMEND: 8070, 8071, 8072, 8078,
8078.2
01/28/13 ADOPT: 10050, 10051, 10052, 10053,
10054, 10055, 10056, 10057, 10058,
10059, 10060
01/24/13 ADOPT: 5255, 5256 AMEND: 5170,
5230, 5250, 5560, 5580
01/08/13 ADOPT: 5205 AMEND: 5000, 5054,
5144, 5170, 5190, 5200, 5230, 5350,
5370 REPEAL: 5133
12/21/12 ADOPT: 5342, 5343, 5344, 5345, 5346,
5347, 5348
12/13/12 AMEND: 12391(a)(2)
12/03/12 AMEND: 10032, 10033, 10034, 10035
11/27/12 ADOPT: 4305, 4309 AMEND: 4300,
4302, 4304, 4306, 4307, 4308
10/30/12 AMEND: 5000, 5052
10/29/12 ADOPT: 10050, 10051, 10052, 10053,
10054, 10055, 10056, 10057, 10058,
10059, 10060
10/17/12 AMEND: 1656
10/16/12 ADOPT: 1581.2
10/10/12 AMEND: 1867

Title 5

02/12/13 AMEND: 19816, 19816.1, 19839
02/11/13 AMEND: 40405.1, 40405.4, 40500,
40501, 40505, 40506, 40507, 40508
02/07/13 ADOPT: 40203
02/07/13 ADOPT: 42740
02/06/13 ADOPT: 9517.3
01/17/13 ADOPT: 80053.1 AMEND: 80024.6,
80053
01/14/13 ADOPT: 80048.3.2 AMEND: 80048.3.1
12/27/12 AMEND: 58108
12/27/12 AMEND: 55000, 55023, 55040, 55041,
55043, 58161, 58162, 58166 REPEAL:
55030
12/24/12 ADOPT: 18224.6, 18227, 18227.1
AMEND: 18078, 18409, 18411, 18424,
18426
12/18/12 AMEND: 76120
12/13/12 AMEND: 40601

11/01/12 AMEND: 18407, 18422
10/31/12 ADOPT: 620, 621, 622, 623, 624, 625,
626, 627

Title 8

02/28/13 AMEND: 4309
01/28/13 ADOPT: 4993.1 AMEND: 1610.3,
1616.3, 4885, 4999, 5001
01/24/13 AMEND: 3210, 3900
12/31/12 ADOPT: 10206, 10206.1, 10206.2,
10206.3, 10206.4, 10206.5, 10206.14,
10206.15, 10207, 10208 AMEND:
10205, 10205.12
12/31/12 ADOPT: 15209 AMEND: 15201, 15210,
15210.1, 15475, 15477, 15481, 15484,
15496, 15497
12/31/12 ADOPT: 9792.5.4, 9792.5.5, 9792.5.6,
9792.5.7, 9792.5.8, 9792.5.9, 9792.5.10,
9792.5.11, 9792.5.12, 9792.5.13,
9792.5.14, 9792.5.15 AMEND:
9792.5.1, 9792.5.3, 9793, 9794, 9795
12/31/12 ADOPT: 37, 10159 AMEND: 1, 11, 11.5,
14, 17, 30, 31.2, 31.7, 33, 35, 35.5, 36, 38,
100, 105, 106, 10160
12/31/12 ADOPT: 9785.5, 9792.6.1, 9792.9.1,
9792.10.1, 9792.10.2, 9792.10.3,
9792.10.4, 9792.10.5, 9792.10.6,
9792.10.7, 9792.10.8, 9792.10.9
AMEND: 9785, 9792.6, 9792.9,
9792.10, 9792.12
12/27/12 ADOPT: 9789.25 AMEND: 9789.20,
9789.21, 9789.22
12/27/12 ADOPT: 9789.39 AMEND: 9789.30,
9789.31, 9789.32, 9789.33, 9789.36,
9789.37, 9789.38
12/27/12 AMEND: 9795.1, 9795.3
12/20/12 ADOPT: 10133.31, 10133.32, 10133.33,
10133.34, 10133.35, 10133.36 AMEND:
9813.1, 10116.9, 10117, 10118,
10133.53, 10133.55, 10133.57,
10133.58, 10133.60 REPEAL:
10133.51, 10133.52
12/10/12 AMEND: 10210, 10211, 10212, 10214,
10215, 10216, 10217, 10218, 10222,
10223, 10225, 10228, 10229, 10232,
10232.1, 10232.2, 10245, 10250.1,
10252.1, 10253.1, 10270, 10271, 10273,
10290, 10291, 10293, 10294.5, 10297
10/31/12 ADOPT: 6625.1 AMEND: 6505
10/23/12 AMEND: 1593, 3650
10/18/12 AMEND: 6325

Title 9

03/05/13 AMEND: 7141.5, 7143, 7227, 7350,
7351, 7353.6, 7354, 7355, 7356, 7357,
7358

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01/17/13	AMEND: 7141.5, 7143, 7227, 7350, 7351, 7353.6, 7354, 7355, 7356, 7357, 7358	03/06/13	ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8
Title 10		03/05/13	AMEND: 265, 365, 366, 478, 708.12, 708.16
03/04/13	AMEND: 2690, 2690.1, 2690.2	02/27/13	AMEND: 670.7 (e) & (f)
01/17/13	ADOPT: 6410, 6420, 6422, 6424, 6440, 6442, 6444	02/25/13	AMEND: 670.5
01/11/13	AMEND: 2498.4.9, 2498.5, 2498.6	02/14/13	ADOPT: 15183.3, Appendix M, Appendix N
12/31/12	AMEND: 2695.8(f), 2695.8(g)	02/14/13	AMEND: 27.25, 27.30, 27.35, 27.45, 27.50, 27.65, 28.26, 28.27, 28.28, 28.29, 28.49, 28.54, 28.55, 28.56, 28.58
12/19/12	ADOPT: 2523, 2523.1, 2523.2, 2523.3, 2523.4, 2523.5, 2523.6	01/31/13	AMEND: 1270, 1270.02, 1270.03, 1270.04, 1270.05, 1270.06, 1270.07, 1270.08, 1270.09
12/17/12	AMEND: 2248.14	01/08/13	AMEND: 27.65, 28.30
12/11/12	AMEND: 3780	12/27/12	ADOPT: 1.45, 5.91 AMEND: 1.77, 2.25, 2.30, 4.20, 5.00, 5.05, 5.10, 5.40, 5.60, 5.80, 5.81, 7.00, 7.50, 8.00, 27.85, 27.90, 27.91, 28.90, 28.95, 701
11/19/12	AMEND: 2698.401	12/20/12	AMEND: 703
11/13/12	AMEND: 2498.4.9	11/19/12	AMEND: 632
Title 11		11/07/12	AMEND: 701
12/12/12	AMEND: 1081	11/06/12	ADOPT: 1052.5 AMEND: 895, 916.9, 1052, 1052.1, 1052.2
11/26/12	AMEND: 1001, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1018, 1019, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1060, 1070, 1071, 1080, 1081, 1082, 1083, 1084, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960	11/02/12	AMEND: 163, 164
11/15/12	AMEND: 1005, 1007, 1008	10/29/12	AMEND: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.11, 18660.12, 18660.13, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.20, 18660.21, 18660.22, 18660.30, 18660.31, 18660.32, 18660.33, 18660.34, 18660.35, 18660.36, 18660.37, 18660.38, 18660.39, 18660.41, 18660.43
11/15/12	AMEND: 1005	10/18/12	ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8
Title 13		Title 15	
02/07/13	AMEND: 2193	03/04/13	REPEAL: 3999.10
01/28/13	ADOPT: 426.00	02/25/13	ADOPT: 3375.6 AMEND: 3000, 3375
01/24/13	AMEND: 425.01	02/25/13	ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323
01/07/13	AMEND: 553.70	02/21/13	AMEND: 3000, 3190, 3213, 3334
12/31/12	AMEND: 1900, 1956.8, 1960.1, 1961, 1961.2, 1961.3, 1962.1, 1962.2, 1976	02/12/13	ADOPT: 8004, 8004.1, 8004.2, 8004.3, 8004.4 AMEND: 8000
12/11/12	AMEND: 2403, 2404, 2407, 2412, 2421, 2423, 2424, 2425, 2425.1, 2426, 2427, 2433, 2447, 2783, 2784	01/17/13	AMEND: 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, 3521.2
12/10/12	AMEND: 423.00	01/15/13	AMEND: 3999.14
11/13/12	AMEND: 1200, 1239	12/20/12	ADOPT: 3079, 3079.1 AMEND: 3000, 3075.2, 3075.3
11/06/12	ADOPT: 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218	10/25/12	ADOPT: 3999.14
10/15/12	ADOPT: 2477.1, 2477.2, 2477.3, 2477.4, 2477.5, 2477.6, 2477.7, 2477.8, 2477.9, 2477.10, 2477.11, 2477.12, 2477.13, 2477.14, 2477.15, 2477.16, 2477.17, 2477.18, 2477.19, 2477.20, 2477.21 AMEND: 2477	10/22/12	AMEND: 3019, 3044, 3091, 3120
Title 14		10/18/12	ADOPT: 3999.13
03/06/13	ADOPT: 1299.01, 1299.02, 1299.03, 1299.03(a), 1299.03(b)(1) and most of the document incorporated therein by reference, 1299.03(b)(2)(B), 1299.03(b)(2)(C), 1299.03(c), 1299.04, 1299.05 REPEAL: 1299		

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10/17/12 ADOPT: 3375.6 AMEND: 3000, 3375 95482, 95484, 95485, 95486, 95488, 95490

Title 16

02/27/13 AMEND: 3340.29 11/14/12 AMEND: 6508
 02/27/13 AMEND: 1575 11/02/12 AMEND: 100500
 02/13/13 ADOPT: 4187 AMEND: 4184 10/30/12 AMEND: 100060, 100070

Title 18

02/07/13 AMEND: 1495.2
 02/06/13 AMEND: 1735.1, 1735.2, 1735.3, 1751.2
 01/22/13 AMEND: 1399.15
 01/15/13 ADOPT: 1399.99.1, 1399.99.2, 1399.99.3, 1399.99.4
 01/14/13 AMEND: 1566.1
 01/10/13 AMEND: 1399.536
 01/09/13 AMEND: 1811, 1870, 1887.3
 12/18/12 ADOPT: 37.5
 12/13/12 AMEND: 2615, 2620
 11/29/12 AMEND: 2524, 2579.10
 11/27/12 ADOPT: 1495, 1495.1, 1495.2, 1495.3, 1495.4
 11/14/12 ADOPT: 1139, 1140, 1141, 1142, 1143, 1144
 11/13/12 ADOPT: 2333
 11/07/12 ADOPT: 1023.15, 1023.16, 1023.17, 1023.18, 1023.19
 10/31/12 AMEND: 1425
 10/29/12 ADOPT: 1065
 10/25/12 ADOPT: 2.8, 11, 11.1 AMEND: 9.2

Title 17

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 02/11/13 ADOPT: 6300.1, 6300.3, 6300.5, 6300.7, 6300.9, 6300.11, 6300.13, 6300.15, 6300.17, 6300.19, 6300.21, 6300.23, 6301.1, 6301.3, 6301.5, 6301.7, 6301.9, 6303.1, 6303.3
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 12/19/12 ADOPT: 95158 AMEND: 95101, 95102, 95103, 95104, 95105, 95111, 95112, 95113, 95114, 95115, 95119, 95120, 95121, 95122, 95123, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, 95202, 95802
 12/06/12 AMEND: 95920
 11/26/12 ADOPT: 95480.2, 95480.3, 95480.4, 95480.5 AMEND: 95480.1, 95481, 95482, 95484, 95485, 95486, 95488, 95490

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10/26/12 AMEND: 1601, 1602, 1604, 1605.1, 1605.3, 1606, 1607

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02/07/13 AMEND: 1301, 1310, 1312
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11/13/12	ADOPT: 2707.2-1 AMEND: 3302-1	
10/25/12	AMEND: 97005, 97019, 97041, 97052, 97053, 97054	12/17/12 ADOPT: 3949.9
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