



# 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 (the “Commission”), under the authority vested in it under the Political Reform Act (the “Act”)<sup>1</sup> by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **April 25, 2013**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **April 24, 2013**.

#### BACKGROUND/OVERVIEW

Government Code Section 87100 provides that “no public official at any level of state or local government shall make, participate in making or in any way attempt to use his [or her] official position to influence a governmental decision in which he [or she] knows or has reason to know he has a financial interest.” Section 87103 provides that an official has a financial interest in a decision “if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of [certain enumerated economic interests.]”

The Commission currently has an eight-step analytical process to determine if a conflict of interest exists in any given governmental decision. In its continuing efforts to simplify and clarify the Act’s regulations, the Commission is examining and revising the existing conflict of interest analysis. This effort began last year

<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

with changes to Step Six of that process addressing if it is “reasonably foreseeable” that the governmental decision will have a material financial effect on an official’s economic interest.

Over the next several months, Commission staff will continue to present proposed amendments to improve, update, clarify, and simplify the Act’s conflict of interest regulations. The first part of this process is to propose regulatory amendments to the introductory conflict’s regulation (18700), which will provide the basic rule, relevant definitions, and the framework for the new proposed four-step analytical process. Certain language currently contained in the Regulation 18701 and 18703 series will be incorporated in this regulation.

As with the amendments that were adopted to Regulation 18706 last year, these amendments, if adopted, will not go into effect until the remaining proposed amendments applicable to the conflict of interest process (e.g. materiality, public generally) are considered and adopted. Once this process is completed, the adopted amendments will all take effect concurrently.

#### REGULATORY ACTION

##### Amend 2 Cal. Code Regs. Section 18700:

For the reasons provided above, the Commission will consider amending the language contained in Regulation 18700 to provide useful and accurate guidelines, including additional definitions, for making a determination of a conflict of interest in governmental decisionmaking by establishing a more useful analytical process following recent changes to the “reasonably foreseeable” test amended last year and in anticipation of upcoming proposed amendments to the remainder of the conflict of interest regulations.

#### SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

#### FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

**AUTHORITY**

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and repeal rules and regulations to carry out the purposes and provisions of the Political Reform Act.

**REFERENCE**

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 87100 and 87103.

**CONTACT**

Any inquiries should be made to Bill Lenkeit, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.php?id=247#2>.

**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**

MULTI-COUNTY AGENCY: San Joaquin Tributaries Authority

**AMENDMENT**

MULTI-COUNTY AGENCY: Golden Gate Bridge, Highway and Transportation District  
 STATE AGENCY: Department of Forestry and Fire Protection

A written comment period has been established commencing on **March 22, 2013**, and closing on **May 6, 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 **May 6, 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. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (“Commission”), pursuant to the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **May 16, 2013**, at approximately **10:00 a.m.**

NOTICE OF INTENTION TO AMEND EXISTING CONFLICT-OF-INTEREST CODE

The Commission is providing notice of its intention to review and amend 2 Cal. Code Reg. Section 18351, the Commission’s conflict-of-interest code. Authority for this action is based on Government Code Section 87306. A 45-day written comment period has been established commencing on **March 22, 2013**, and closing on **May 6, 2013**. Written comments concerning the proposed amendments should be directed to the Fair Political Practices Commission, Attention: Alexandra Castillo, 428 J Street, Suite 620, Sacramento, California 95814. For inquiries, call (916) 322-5660. Any written comments relating to the proposed action must be re-

ceived no later than **May 6, 2013**, in order for them to be considered by the agency before it amends its code.

The Commission has prepared an Initial Statement of Reasons as a written explanation of the reasons for the amendments. This Initial Statement of Reasons, the regulatory language of the proposed amendment, and other information upon which the proposed amendment is based are available to interested persons at the Commission’s address listed above.

After the Commission’s public hearing, the agency’s proposed conflict-of-interest code will be submitted to the agency’s Code Reviewing Body (i.e., the Attorney General’s Office) for its review.

REGULATORY ACTION

Amend 2 Cal. Code Regs. Section 18351: Pursuant to Government Code Section 87306 and 2 Cal. Code Regs. Section 18750, the Commission will amend its conflict-of-interest code due to changed circumstances, including the creation of new positions which must be designated pursuant to Government Code Section 87302 and relevant changes in the duties assigned to existing positions.

*Executive Office*

- Communications Director and Legislative Coordinator: The assigned disclosure category to these positions is being amended from category 1 to 3. It has been determined that these positions do not make real property decisions.
- Graduate Legal Assistant: This position is being added. Since the position makes decisions that are broad and indefinable, it is subject to reporting under Category 1.

*Legal Division*

- Political Reform Consultant: This position is being deleted because it is an abolished position.
- Staff Services Analyst/Legal Analyst: This position is being deleted because staff holding this position are not deemed to be making or participating in the making of governmental decisions.

*Enforcement Division*

- Assistant Division Chief: This position is being deleted because it is an abolished position.
- Staff Services Analyst: This position is being deleted because staff holding this position are not deemed to be making or participating in the making of governmental decisions.

- Legal Analyst: This position is being added. Since this position participates in the making of governmental decisions affecting the Division, it is subject to reporting under Category 5.

*Administration Division*

- Associate Information Systems Analyst (Network Operations): This position is being deleted because staff holding this position are not deemed to be making or participating in the making of governmental decisions.
- Budget Officer: This title is being changed to “Fiscal Officer.”
- Personnel Officer: The disclosure category is being amended from Category 4 to 5. It has been determined that this position should have limited division or unit-wide disclosure.

*Technical Assistance Division*

- Staff Services Analyst: This position is being deleted because staff holding this position are not deemed to be making or participating in the making of governmental decisions.
- Disclosure Category 3: This category is being amended to include disclosure of persons requesting a formal advice letter.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues. The Commission must determine that no alternative considered by the agency 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.

FISCAL IMPACT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

The adoption of the proposed amendments: (1) will not impose a cost or savings on any state agency, 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; (2) will not result in any nondiscretionary cost or savings to local agencies; (3) will not result in any cost or savings in federal funding to the state; (4) will not impose a mandate on local agencies or school districts; and (5) will not have any potential cost impact on private persons or businesses including small businesses.

AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and repeal rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code Sections 87300–87302, and 87306.

CONTACT

Any inquiries concerning this proposal should be made to Alexandra Castillo, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone: (916) 322–5660. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.php?id=247#2>.

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

**DIVISION 3. ECONOMICS**

**CHAPTER 1. FRUIT AND VEGETABLE STANDARDIZATION**

**SUBCHAPTER 4. FRESH FRUITS, NUTS AND VEGETABLES**

**ARTICLE 4. CONTAINERS**

**Section 1380.19**

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to adopt the proposed regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will

hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted via facsimile (FAX) at (916) 900-5345 or by e-mail to [steve.patton@cdfa.ca.gov](mailto:steve.patton@cdfa.ca.gov). The written comment period closes at **5:00 p.m. on May 6, 2013**. The Department will consider only comments received at the Department by that time. Submit comments to:

Steve Patton, Compliance Chief  
 Inspection and Compliance Branch  
 California Department of Food and Agriculture  
 1220 N Street, Sacramento, CA 95814  
 Telephone: (916) 900-5030; Fax: (916) 900-5345

#### AUTHORITY AND REFERENCE

Sections 14, 407, 42681, and 42684 of the Food and Agricultural Code authorize the Department to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Sections 42681, 42682, 42684, and 42941 of the Food and Agricultural Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action amends Title 3, Division 3, Chapter 1, Subchapter 4, Article 4, §1380.19 et seq. of the CCR, which currently establishes standard container descriptions for fresh fruits, nuts and vegetables.

Section 14 of the Food and Agricultural Code authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in the Food and Agricultural Code grants the California Department of Food and Agriculture Secretary the authority to amend or repeal rules and regulations.

Section 407 of the Food and Agricultural Code authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which the Secretary is directed or authorized to administer or enforce.

Section 42681 of the Food and Agricultural Code specifies, in part, that the Secretary of the Department may, upon a petition of a person that the Secretary finds

has a substantial interest in the growing or handling of the particular fruit, nut, or vegetable involved, establish, modify, or rescind by regulation, which initially took effect January 1, 1971, standard container, lid, marking, sizing requirement for commodities, and packing arrangement for any fruits, nuts, or vegetables, for which specific quality standards have otherwise been provided by law or regulation.

Section 42682 of the Food and Agricultural Code authorizes the CDFA Secretary to establish, modify, or rescind, by regulation, which initially took effect January 1, 1971, standard container, lid, marking, sizing requirements for commodities, and packing arrangements for any fruits, nuts, or vegetables, for which specific quality standards have otherwise been provided by law or regulation.

The Secretary shall not, by regulation, adopt any new container or packing requirement, unless the new container or packing requirement has previously been authorized by regulation of the director as an experimental container pack.

Section 42684 of the Food and Agricultural Code establishes the statutory requirements for establishing, modifying, or rescinding, by regulation, quality and maturity standards for any fruits, nuts, or vegetables.

Section 42941 of the Food and Agricultural Code mandates that it is unlawful for any person to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, cause to be transported, or sell any fruits, nuts, and vegetables and their containers unless they conform to the provisions of the Standardization Program's division or the regulations promulgated thereunder.

Due to the increased types of varietal melons, California producers are supplying fruit to the vast and growing population throughout North America. The various shapes of the different varietal melons, the internal pressure, bruising, subjectivity, and skin type all require different packaging to arrive in good condition. These varietal melons are so different in shape that it is very difficult to pack in the current standard containers that are approved for traditional mixed melons. In order to mitigate these issues, the Department is proposing to adopt 44S as a new standard container for shipping mixed melons.

The Department has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the establishment of a new standard container for shipping mixed melons.

Benefits of the Proposed Action: This proposed regulatory action will benefit producers, packers, and consumers by allowing an additional standardized contain-

er, which provides the industry with the ability to use an alternative container for shipping melons which will assist in reducing damage to the product.

#### 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.

Other nondiscretionary cost or savings imposed on local agencies: None.

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 cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes that it is (1) unlikely that the proposal will eliminate any jobs; (2) likely that this proposal may create an unknown number of jobs for producers and packers of varietal melons; (3) likely that the proposal will create an unknown number of new businesses providing varietal melons; (4) unlikely that the proposal will eliminate any existing businesses.

Benefits of the Proposed Action: The proposed regulation will benefit California producers, packers, and consumers. Traditional mixed melons are declining in popularity across North America as population demographics and consumer preference has changed. As the variety of melons grown by California producers increases in diversity and volume, the need for corresponding standard containers is evident.

Significant effect on housing costs: None.

#### SMALL BUSINESS DETERMINATION

The Department has initially determined that the proposed changes to the regulations would result in no added costs to small businesses affected by these proposed changes. This proposed regulatory action would add a standard container for varietal melons which is unlikely

to result in an impact to small businesses. In addition, this proposed regulatory action was initiated at the request of the impacted industry.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department has determined that no reasonable alternative it considered 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 regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Steve Patton, Compliance Chief  
Inspection and Compliance Branch  
California Department of Food and Agriculture  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 900-5030; Fax: (916) 900-5345

The backup contact person for these inquiries is:

Danielle Chapman, Staff Services Analyst  
Inspection and Compliance Branch  
California Department of Food and Agriculture  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 900-5030; Fax: (916) 900-5345

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Danielle Chapman at the above address.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at: 2800 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice; the proposed text of the regulations; the initial statement of reasons; a peti-

tion received from Milas Russell, Jr., President, Sandstone Marketing, Inc. and letters of support from Couture Farms, Five Crowns Marketing, Fisher Ranch, T&M Farms, and Turlock Fruit Company, Inc. Copies may be obtained by contacting Danielle Chapman at the address or phone number listed above.

**AVAILABILITY OF CHANGED OR MODIFIED 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. Please send requests for copies of any modified regulations to the attention of Danielle Chapman at the address provided on the previous page. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Danielle Chapman at the address provided on the previous page.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

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 the Department's website at: <http://www.cdfa.ca.gov/is/Regulations.html>.

**TITLE 16. BOARD OF OCCUPATIONAL THERAPY**

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board or CBOT) is proposing to take the action described in the Informative Digest. Any person interested may submit statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on May 6, 2013.

The Board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be

held, he or she must make the request in writing to the CBOT. The request must be received in the Board office not later than 5:00 p.m. on April 19, 2013.

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 2570.3 and 2570.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 2570.28, the Board is proposing to revise Division 39, Title 16 of the California Code of Regulations (CCR) as follows:

**INFORMATIVE DIGEST**

Informative Digest

The Board is the regulatory entity that regulates the practice of occupational therapy in the State of California. Existing law, BPC section 2570.25, mandates protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions.

CCR Section 4101 identifies functions and duties that the Board delegates its authority to the executive officer to perform. Among these duties, the executive officer is authorized to receive and file accusations and statements of issues, determine the time and date of administrative hearings, issue subpoenas, and approve settlement agreements for revocation or the surrender of a license. The duties are delegated to the executive officer to streamline and increase the efficiency of Board business. This proposed regulatory action will add authority for the executive officer to grant a motion to vacate a default decision filed by a respondent.

This proposed regulatory action will establish and create CCR Section 4146.5, to implement policy that will make adopted Default Decisions and Stipulated Settlements go into effect 10 days from the date of service (notification) to a respondent unless otherwise specified in an Order of the Board.

This proposed regulatory action amends the Board's existing Disciplinary Guidelines by adding specific references to several general codes that were not previously listed in the document and provides minimum and maximum penalties and recommended probation terms for those violations. In addition, the proposed regulato-

ry action amends many of the Board’s standard and optional terms of probation by clarifying a probationer’s responsibilities, duties, and Board expectations. Other amendments incorporated promote communication, eliminate conflict, and add a new term that would prohibit a probationer from instructing continuing competency or continuing education courses.

This proposed regulatory action amends and updates the Board’s existing Uniform Standards Relating to Substance Abusing by incorporating the most recent version of the Department of Consumer Affairs’ Substance Abuse Coordination Committee’s “Uniform Standards Regarding Substance Abusing Healing Arts Licensees (April 2011)” and establishes a definition and criteria for applying these standards.

This proposed regulatory action makes a formatting change to existing CCR Section 4147 by removing all references to the Uniform Standards Related to Substance Abuse, and places references into its own newly created section, numbered 4147.5. Thus, the Board will no longer incorporate its Disciplinary Guidelines and the Uniform Standards Related to Substance Abuse into a single integrated document; each document will stand alone. The proposed regulatory language makes other technical, punctuation, and renumbering changes due to the addition or deletion of text and the addition of a new probation term.

Policy Statement/Anticipated Benefits of Proposal

The intent and design of the proposed action is to streamline and reduce processing times associated with the disciplinary process. Amendment of the Board’s Disciplinary Guidelines and incorporation of the most recent version of the Department of Consumer Affairs’ Substance Abuse Coordination Committee’s “Uniform Standards Regarding Substance Abusing Healing Arts Licensees (April 2011)” will enhance and promote efficient administration of its Enforcement and Probation Programs.

The proposed regulatory action enhances and promotes public safety by establishing procedures, methods, and processes to streamline the disciplinary process and improve administration of the Board’s Enforcement and Probation Programs.

Consistency with Existing State Regulations

This regulatory proposal is consistent with existing state regulations.

Document Incorporated by Reference:

California Board of Occupational Therapy Disciplinary Guidelines October 2013.

Department of Consumer Affairs’ Substance Abuse Coordination Committee’s “Uniform Standards Regarding Substance Abusing Healing Arts Licensees (April 2011).”

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.

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 not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Affected Private Persons:

The Board has determined that this regulatory proposal will not adversely impact affected private persons (licensed occupational therapy practitioners) that operate in a competent and honest manner.

However, practitioners that have subjected their license to disciplinary action for unprofessional, incompetent, or dishonest practice may lose their privilege to practice through revocation or suspension, thereby resulting in a loss of income or otherwise result in costs associated with probation. Any hardship incurred to affected disciplined occupational therapy practitioners is outweighed by the Board’s mandate and purpose in protecting the health, safety, and welfare of California consumers.

Effect on Housing Costs: None.

Effect on Small Business:

The Board has made an initial determination that the proposed regulatory action would not have a negative impact on small business. The proposed regulatory action is directed toward individuals who are licensed occupational therapy practitioners and is designed to streamline enforcement processes and promote effective administration of the Board’s Enforcement and Probation Programs.

RESULTS OF ECONOMIC IMPACT ANALYSIS

Impact on Jobs/New Business: The Board has determined that this regulatory proposal will not have a significant adverse 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.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment: The proposed regulatory action will promote and protect the health, safety, and welfare of

California consumers by establishing and implementing procedures that will increase the efficiency and handling of disciplinary decisions and enhance and bolster the Board's probation program and the way it deals with licensees with substance abuse issues.

CONSIDERATION OF ALTERNATIVES

The CBOT 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 as and less burdensome to affected private persons than the proposal described in this Notice or would be more cost-effective to the 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 within the timeframes identified in this Notice, or at a hearing in the event that such a request is made by the public.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained from the contact person listed below.

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

All the information upon which the proposed regulation is 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 Board's website as listed below.

CONTACT PERSON

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

Jeff Hanson  
 California Board of Occupational Therapy  
 2005 Evergreen Street, Suite 2050,  
 Sacramento, CA 95815  
 (916) 263-2294 (Tel) OR (916) 263-2701 (Fax)  
[cbot@dca.ca.gov](mailto:cbot@dca.ca.gov)

The backup contact person is:

Heather Martin  
 California Board of Occupational Therapy  
 2005 Evergreen Street, Suite 2050,  
 Sacramento, CA 95815  
 (916) 263-2294 (Tel) OR (916) 263-2701 (Fax)  
[cbot@dca.ca.gov](mailto:cbot@dca.ca.gov)

**Website Access: All materials regarding this proposal can be found on-line at [www.bot.ca.gov](http://www.bot.ca.gov) > Laws and Regulations > Proposed Regulations.**

TITLE 16. BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

NOTICE IS HEREBY GIVEN that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is proposing to take the action described in the Informative Digest. The Board does not intend to hold a hearing in this matter. If an interested party wishes that a hearing be held, he or she must make the request in writing to the Board no later than 5 p.m. on April 22, 2013. 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 the 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.

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 May 7, 2013.

Authority and Reference: Pursuant to the authority vested by Sections 6716, 7818, 7860, and 8710 of the Business and Professions Code, and to implement, interpret, or make specific Sections 6716, 6775, 7818, 7860, 8710, and 8780 of said Code, the Board is considering changes to Division 5 and Division 29 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

It is the intent of the Board to ensure that its laws are clear, concise, efficient, and necessary. To that extent, staff is proposing this regulatory action to the enforcement components of the Professional Engineers Act, Professional Land Surveyors' Act, and Geologist and

Geophysicist Act so that they are all similar in content and form. These modifications would make it easier for the consumers of California and our Board's licensees and certificate holders to comprehend and follow the laws and regulations and would provide consistency with the Board's current procedures and maintain the Board's mission to safeguard the life, health, property, and welfare of the public.

Title 16, California Code of Regulations section 475 would be amended to remove from subsection (c)(8) the following words: "and shall not misappropriate the professional work of others." This is an implicit reference to copyright infringement, which is not in the Board's jurisdiction to address, since copyright infringement is a civil or criminal matter. Other references to copyright infringement were previously removed from the Board's regulations during the original rulemaking process. This section, however, was overlooked. This amendment would correct the previous oversight by removing the language from the subsection.

Similarly, this amendment to Section 476 would remove from subsection (c)(8) the following words: "and shall not misappropriate the professional work of others." This is also an implicit reference to copyright infringement, which is not in the Board's jurisdiction to address since copyright infringement is a civil or criminal matter. As noted above, references to copyright infringement were previously removed from the Board's regulations during the original rulemaking process. This section, however, was overlooked. This amendment would correct the previous oversight by removing the language from the subsection.

In addition to correcting grammatical errors and removing the aforementioned reference to copyright infringement, Section 3065 would be amended to add a subsection indicating that a licensee engaged by a governmental agency cannot, while engaging in a separate geological or geophysical task, review his or her own work unless authorized in writing by the agency. This would mirror Sections 475(b)(4) and 476(b)(4) pertaining to professional engineers and land surveyors and provide consistency among all three Acts that lie under the purview of the Board. Although the Board is not aware of any situations in which a geologist or geophysicist licensee, as a public agency representative, has circumvented the approval process and approved his or her own work, the opportunity to do so must be prohibited so that proper due process is being conducted by our licensees during the approval process.

#### AMEND SECTIONS 475, 476, AND 3065 OF TITLE 16 OF THE CALIFORNIA CODE OF REGULATIONS

Section 3065 is being amended to eliminate the opportunity for a licensed geologist or geophysicist who works for a public agency to review or approve his or her own work, since doing so would impede due process and may enable the licensee to circumvent the approval process to benefit themselves. This could pose a risk to the public health and safety. Professional engineers and land surveyors already have a regulation in effect to prohibit them from approving their work, Section 475(b)(4) and 476(b)(4). This amendment would provide consistency among all of the laws under the purview of the Board.

Section 3065 is also being amended, as are Sections 475 and 476, to remove unnecessary language that implies references to copyright infringement. It is a civil matter whose proper jurisdiction is in civil courts. Therefore, the language should be removed from the Board's laws.

#### POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS OF PROPOSAL

The purpose and benefit of this proposed regulatory action is to ensure that the approval process at local agencies by licensees will be performed fairly and with due process so that certain individuals cannot circumvent the process. This amendment would also benefit consumers in that it would make it clearer in our laws that copyright infringement is not within the jurisdiction of the Board. These amendments will help to maintain the Board's mission to safeguard the life, health, property, and welfare of the public.

#### CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

The Board has evaluated this proposed regulatory action and it is neither inconsistent nor incompatible with existing state regulations.

#### FISCAL IMPACT ESTIMATES

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

This proposed regulatory action does not result in a fiscal impact to public or state agencies.

Nondiscretionary Costs / Savings to Local Agencies:

This proposed regulatory action does not result in nondiscretionary costs or savings to local agencies.

Local Mandate:

This proposed regulatory action does not impose a mandate on local agencies or school districts.

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.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have an 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.

Cost Impact on Representative Private Person or Business:

This proposed regulatory action would not have a cost impact on licensees or businesses. There may be a slight economic impact on the licensee if he has to submit work to someone at the public agency (other than the licensee) for a fee. However, this fee would have to be paid regardless of who reviewed the work.

Effect on Housing Costs:

None.

**EFFECT ON SMALL BUSINESS**

The Board has determined that the proposed regulations would not affect small businesses. The amendments to Sections 475 and 476 remove a reference to civil law and the addition of Subsection 3065(d)(5) only clarifies that the licensee cannot review and approve his or her own work.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

Impact of Jobs/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.

Benefits of Regulations:

The Board has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety, and the State's government:

The purpose and benefit of this proposed regulatory action is to ensure that the approval process at local agencies by licensees will be performed fairly and with due process so that certain individuals cannot circumvent the process. This amendment would also benefit consumers in that it would make it clearer in our laws that copyright infringement is not within the jurisdiction of the Board. These amendments will help to maintain the Board's mission to safeguard the life, health, property, and welfare of the public.

**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, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

**INITIAL STATEMENT OF REASONS AND INFORMATION**

The Board has prepared an initial statement of 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 Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833.

**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 per-

son 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: Larry Kereszt  
Address: 2535 Capitol Oaks Drive,  
Suite 300  
Sacramento, CA 95833  
Telephone No.: (916) 263-2240  
Fax No.: (916) 263-2246  
E-Mail Address: Larry.Kereszt@dca.ca.gov

The backup contact person is:

Name: Erin LaPerle  
Address: 2535 Capitol Oaks Drive,  
Suite 300  
Sacramento, CA 95833  
Telephone No.: (916) 263-1847  
Fax No.: (916) 263-2246  
E-Mail Address: Erin.LaPerle@dca.ca.gov

**WEBSITE ACCESS**

Materials regarding this proposal can be found at [www.bpelsg.ca.gov](http://www.bpelsg.ca.gov).

**TITLE 16. CALIFORNIA ARCHITECTS BOARD**

NOTICE IS HEREBY GIVEN that the California Architects Board (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 the office of the California Architects Board, 2420 Del Paso Road, Sequoia Room, Sacramento, California, at 2:00 p.m., on May 9, 2013. 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 May 9, 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 5526, 5550 and 5552.5 of the Business and Professions Code, and to implement, interpret or make specific Sections 5550, 5552, and 5552.5 of said Code, the Board is considering changes to Division 2 of Title 16 of the California Code of Regulations (CCR) as follows:

**INFORMATIVE DIGEST**

A. Informative Digest

Section 5526 of the Business and Professions Code authorizes the Board to adopt, amend, modify, or repeal rules and regulations as are reasonably necessary to carry into effect the provisions of the Architects Practice Act. Sections 5550, 5552, and 5552.5 entitle any person who meets the qualifications set forth in the article to an examination for a license to practice architecture subject to the rules and regulations governing examinations and authorizes the Board to implement an intern development program.

B. Policy Statement Overview/Anticipated Benefits of Proposal

**Amend CCR Section 121 — Form of Examinations; Reciprocity**

The existing regulation only permits candidates licensed as an architect in a Canadian province who hold a current and valid National Council of Architectural Registration Boards' (NCARB) Certificate or licensed in the United Kingdom who hold an NCARB Certificate issued on or before December 31, 1996 to be eligible for the California Supplemental Examination (CSE). This proposal will grant applicants from foreign countries, who have been issued an NCARB Certificate by having successfully completed NCARB's Broadly Experienced Foreign Architect (BEFA) Program, eligibility to take the CSE. The proposal will subsequently eliminate an inequity which exists related to eligibility to take the CSE and foreign reciprocity.

C. Consistency and Compatibility with Existing State Regulations

This Board has evaluated this regulatory proposal and it is neither inconsistent nor incompatible with existing state regulations.

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:

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 studies/relevant data were relied upon in making the above determination: N/A.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses as it only affects architect applicants.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any 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.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety, and state's environment: This regulatory proposal will update the requirements of architectural applicants to allow foreign architects to use their previous work experience to demonstrate their competence of the national standard thereby benefitting the health, safety, and welfare of California residents.

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 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 proposal described in this Notice, 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 any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Architects Board at 2420 Del Paso Road, Suite 105, Sacramento, California 95834 or by telephoning the contact person listed below.

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: Timothy Rodda  
 Address: 2420 Del Paso Road, Suite 105  
 Sacramento, CA 95834  
 Telephone No.: (916) 575-7217  
 Fax No.: (916) 575-7283  
 E-Mail Address: timothy.rodde@dca.ca.gov

The backup contact person is:

Name: Marccus Reinhardt  
 Address: 2420 Del Paso Road, Suite 105  
 Sacramento, CA 95834  
 Telephone No.: (916) 575-7212  
 Fax No.: (916) 575-7283  
 E-Mail Address: marccus.reinhardt@dca.ca.gov

Website Access: Materials regarding this proposal can be found at [www.cab.ca.gov](http://www.cab.ca.gov).

**TITLE 16. CALIFORNIA ARCHITECTS BOARD**

NOTICE IS HEREBY GIVEN that the California Architects Board (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 the office of the California Architects Board, 2420 Del Paso Road, Sequoia Room, Sacramento, California, at 2:00 p.m., on May 9, 2013. 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 May 9, 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 5526 and 5550 of the Business and Professions Code, and to implement, interpret or make specific Section 5550 of said Code, the Board is considering changes to Division 2 of Title 16 of the California Code of Regulations (CCR) as follows:

**INFORMATIVE DIGEST**

**A. Informative Digest**

Section 5526 of the Business and Professions Code authorizes the Board to adopt, amend, modify, or repeal rules and regulations as are reasonably necessary to carry into effect the provisions of the Architects Practice Act. Section 5550 authorizes the Board to establish

qualifications required to become eligible for examination.

**B. Policy Statement Overview/Anticipated Benefits of Proposal  
Amend CCR Section 109 — Filing of Applications**

The existing regulation references an out-of-date version of the National Council of Architectural Registration Boards' (NCARB) Intern Development Program (IDP) Guidelines required by the Board for candidates. This proposal would update the version of the IDP Guidelines referenced in the regulation to the November 2012 edition and remove any confusion for candidates as to which guidelines they must follow.

**Amend Section 117—Experience Evaluation**

Existing regulations specify candidates may not earn additional experience credit for work performed as part of a degree program, such as an academic internship. This proposal would allow the Board to recognize an academic internship that has been approved by NCARB as part of IDP and align itself with the November 2012 IDP Guidelines.

**C. Consistency and Compatibility with Existing State Regulations**

This Board has evaluated this regulatory proposal and it is neither inconsistent nor incompatible with existing state regulations.

**INCORPORATION BY REFERENCE**

National Council of Architectural Registration Boards' Intern Development Guidelines, November 2012 Edition

**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:

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 studies/relevant data were relied upon in making the above determination: N/A.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses as it only affects architect applicants.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any 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.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and the state's environment: This regulatory proposal will update the requirements of architectural applicants to the national standard thereby benefitting the health, safety, and welfare of California residents.

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 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 proposal described in this Notice, 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 any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Architects Board at 2420 Del Paso Road, Suite 105, Sacramento, California 95834 or by telephoning the contact person listed below.

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: Timothy Rodda  
Address: 2420 Del Paso Road, Suite 105  
Sacramento, CA 95834  
Telephone No.: (916) 575-7217  
Fax No.: (916) 575-7283  
E-Mail Address: [timothy.rodde@dca.ca.gov](mailto:timothy.rodde@dca.ca.gov)

The backup contact person is:

Name: Marccus Reinhardt  
Address: 2420 Del Paso Road, Suite 105  
Sacramento, CA 95834  
Telephone No.: (916) 575-7212  
Fax No.: (916) 575-7283  
E-Mail Address: [marccus.reinhardt@dca.ca.gov](mailto:marccus.reinhardt@dca.ca.gov)

Website Access: Materials regarding this proposal can be found at [www.cab.ca.gov](http://www.cab.ca.gov).

**TITLE 27. OFFICE OF  
ENVIRONMENTAL HEALTH HAZARD  
ASSESSMENT**

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

**TITLE 27. CALIFORNIA CODE OF  
REGULATIONS**

**AMENDMENT TO SECTION 25805  
SPECIFIC REGULATORY LEVELS:  
CHEMICALS CAUSING REPRODUCTIVE  
TOXICITY**

**HYDROGEN CYANIDE AND CYANIDE SALTS**

**MARCH 22, 2013**

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to adopt Proposition 65<sup>1</sup> Maximum Allowable Dose Levels (MADLs) for hydrogen cyanide (HCN) and cyanide salts (CN salts) by amending Section 25805(b) of Title 27 of the California Code of Regulations.<sup>2</sup>

The proposed oral MADL for HCN and CN salts, expressed in terms of cyanide, is 9.8 micrograms per day. For hydrogen cyanide and cyanide salts that dissociate to the cyanide ion, the MADLs are calculated by multiplying the molecular weight of the compound by 0.38.

OEHHA is proposing these MADLs concurrent with the proposed listing of HCN and CN salts as known to the state to cause reproductive toxicity under Proposition 65. In the event these chemicals are not listed, OEHHA will withdraw this rulemaking.

**PUBLIC PROCEEDINGS**

Any written comments concerning these proposed actions, regardless of the form or method of transmission, must be received by OEHHA by 5:00 p.m. on **May 6, 2013**, the designated close of the written comment period. All comments received will be posted on the OEHHA website at the close of the public comment period.

The public is encouraged to submit written information via e-mail, rather than in paper form. Send e-mail comments to [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov). Please include "HCN and CN Salts MADL" in the subject line. Hard-copy comments may be mailed, faxed, or delivered in person to the appropriate address below.

**Mailing Address:** Ms. Monet Vela  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010, MS-23B  
Sacramento, California 95812-4010  
Fax: (916) 323-2610  
Street Address: 1001 I Street  
Sacramento, California 95814

A public hearing on these proposed regulatory amendments will be scheduled on request. To request a hearing, please send an e-mail to Monet Vela at [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) or to the address listed above by no later than **April 22, 2013**. OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA website at least ten days before the public hearing date. The notice will provide the date, time and location of the hearing.

If a hearing is scheduled and you have special accommodation or language needs, please contact Monet Vela at (916) 323-2517 or [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

**CONTACT**

Please direct inquiries concerning the proposed regulatory action described in this notice to Monet Vela, in writing at the address given above, via e-mail to [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) or by calling (916) 323-2517. Susan Luong is a back-up contact person for inquiries concerning processing of these actions and is available at [susan.luong@oehha.ca.gov](mailto:susan.luong@oehha.ca.gov) or by telephone at (916) 327-3015.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

Proposition 65 prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the State to cause cancer or reproductive toxicity, without first giving clear and reasonable warning

<sup>1</sup> The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 *et seq.*, referred to herein as "Proposition 65" or "The Act."

<sup>2</sup> All further references are to sections of Title 27, Cal. Code of Regs., unless otherwise indicated.

to such individual.<sup>3</sup> The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where such chemical passes or probably will pass into any source of drinking water.<sup>4</sup> Warnings are not required and the discharge prohibition does not apply when exposures are insignificant.<sup>5</sup> The proposed MADLs provide guidance for determining when an exposure is insignificant.<sup>6</sup>

Details on the basis for the proposed MADLs for HCN and CN salts are provided in the Initial Statement of Reasons for these regulatory amendments, which is available on request from Monet Vela and is posted on the OEHHA website at [www.oehha.ca.gov](http://www.oehha.ca.gov).

The proposed MADLs were derived using scientific methods outlined in Section 25803.

The proposed regulations would adopt the following MADLs for HCN and CN salts, by amending Section 25805 as follows (addition in underline):

(b) Chemical Name	Level (Micrograms/day)
...	
Hydrogen Cyanide and Cyanide Salts:	
Expressed as cyanide ion (CN <sup>-</sup> )	9.8 (oral)
Expressed as HCN or the salt	0.38 multiplied by the compound's molecular weight in atomic units (oral)
...	

**Anticipated Benefits of the Proposed Regulation**

Some businesses may not be able to afford the expense of establishing a MADL and therefore may have to defend litigation for a failure to warn or for a prohibited discharge of the listed chemical. Adopting this regulation will save these businesses those expenses and may reduce litigation costs. By providing a MADL, this regulatory proposal does not require but may encourage businesses to lower the amount of the listed chemical in their products to a level that does not cause a significant exposure. This in turn may reduce exposures to chemicals that cause reproductive harm.

**No Inconsistency or Incompatibility with Existing Regulations**

OEHHA has determined that the proposed regulations are neither inconsistent nor incompatible with existing state regulations because they do not impose any mandatory requirements on businesses, state or local agencies and do not address compliance with any other law or regulation.

<sup>3</sup> Health and Safety Code section 25249.6.  
<sup>4</sup> Health and Safety Code section 25249.5.  
<sup>5</sup> Health and Safety Code sections 25249.9 and 25249.10.  
<sup>6</sup> See Sections 25801 through 25805.

RESULTS OF THE ECONOMIC  
 IMPACT ANALYSIS

Impact on the Creation, Elimination, or Expansion of Jobs/Businesses in California:

This regulatory proposal will not affect the creation or elimination of jobs within the State of California. Proposition 65 requires businesses with ten or more employees to provide warnings when they expose people to chemicals that are listed under Proposition 65 as known to cause cancer or developmental or reproductive harm. The law also prohibits the discharge of listed chemicals into sources of drinking water. If HCN AND CN SALTS is eventually listed under Proposition 65, businesses who manufacture, distribute or sell products with HCN AND CN SALTS in the state would have to provide a warning if their product or activity exposes the public or employees to this chemical.

This regulatory proposal will have no effect on the creation/elimination/expansion of California businesses.

Benefits of the regulation:

By providing an MADL, this regulatory proposal spares businesses the expense of calculating their own MADL and may also enable them to reduce or avoid litigation costs. In addition, the MADL does not require, but may encourage, businesses to lower the amount of the listed chemical in their product to a level that does not cause a significant exposure, thereby providing a public health benefit to Californians.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Because Proposition 65 expressly<sup>7</sup> does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts nor do they require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

<sup>7</sup> See Health and Safety Code section 25249.11(b).

**COSTS OR SAVINGS TO STATE AGENCIES**

Because Proposition 65 expressly<sup>8</sup> does not apply to any State agency, OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory actions.

**EFFECT ON FEDERAL FUNDING TO THE STATE**

Because Proposition 65 expressly<sup>9</sup> does not apply to any federal agency, OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory actions.

**EFFECT ON HOUSING COSTS**

OEHHA has determined that the proposed regulatory action will have no effect on housing costs because it provides compliance assistance to businesses subject to the Act, but does not impose any mandatory requirements on those businesses.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE**

Because the proposed MADLs provide compliance assistance to businesses subject to the Act, but do not impose any mandatory requirements on those businesses, OEHHA has made an initial determination that the adoption of the regulation 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.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

The proposed MADLs were developed to provide compliance assistance for businesses in determining whether a warning is required or a discharge is prohibited. The MADLs provide a level of exposure at or below which a warning is not required and a discharge is not prohibited. Use of the MADLs is not mandatory. The implementing regulations allow a business to calculate its own levels.<sup>10</sup> However, conducting such an analysis can be expensive and time consuming, and the resulting levels may not be defensible in an enforcement action.

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<sup>8</sup> See Health and Safety Code section 25249.11(b).

<sup>9</sup> See Health and Safety Code section 25249.11(b).

<sup>10</sup> Section 25801 *et seq.*

**EFFECT ON SMALL BUSINESSES**

OEHHA has determined that the proposed regulation will not impose any mandatory requirements on small business. Rather, the proposed regulation will provide compliance assistance for small businesses subject to the Act because, if HCN and CN salts are listed, the regulation will help them determine whether or not an exposure for which they are responsible is subject to the warning requirement or discharge prohibition of the Act.

**CONSIDERATION OF ALTERNATIVES**

The OEHHA must determine that no reasonable alternative considered by the OEHHA or that has otherwise been identified and brought to the attention of the OEHHA would either be more effective in carrying out the purpose for which the actions are 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.

**AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, all the information upon which the regulation is based, and the text of the regulation. A copy of the Initial Statement of Reasons, the text of the regulation and documents used by OEHHA to develop the proposed regulation are available upon request from OEHHA at the address and telephone number indicated above. These documents are also posted on OEHHA's website at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

The full text of any regulation which is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on changed regulation and the full text will be mailed to individuals who testified or submitted written comments at the public hearing, if held, or whose comments were received by OEHHA during the prior public comment period, and anyone who requests notification from OEHHA of the availability of such changes. Copies of the notice and the changed regulation will also be available on the OEHHA website at [www.oehha.ca.gov](http://www.oehha.ca.gov).

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons for this regulatory action may be obtained, when it becomes available, from OEHHA at the address and telephone number indicated above, and on the OEHHA website at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE**

**ACTION:** Notice of Rulemaking Action  
Title 28, California Code of Regulations

**SUBJECT:** Prescription Drug Prior Authorization Request Form Process; Adopting section 1300.67.241 in Title 28, California Code of Regulations; Control No. 2012–3880

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (“Department”) proposes to adopt a regulation under the Knox–Keene Health Care Service Plan Act of 1975 (“Knox–Keene Act”), section 1300.67.241, “Prescription Drug Prior Authorization Request Form Process.”

This rulemaking action proposes to adopt section 1300.67.241, in Title 28, California Code of Regulations. Before undertaking this action, the Director of the Department (“Director”) will conduct written public proceedings, during which time any interested person, or such person’s duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

PUBLIC HEARING

Pursuant to Health and Safety Code section 1367.241(d)(4), the Department will hold a public hearing regarding this regulation. The Department will hold a public hearing starting at **1:00 p.m.** and ending at **5 p.m. on May 6, 2013** at:

**980 Ninth Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814**

The facility is accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person for these hearings in order to make special arrangements. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department re-

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments or contentions (hereafter referred to as comments) relating to the proposed regulatory action by the Department. Comments must be received by the Department, Office of Legal Services, by **5 p.m. on May 6, 2013**, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Jennifer Willis, Senior Counsel. Comments may be transmitted by regular mail, fax, email or via the Department’s website:

**Website:** <http://dmhc.ca.gov/regulations/>  
**Email:** [regulations@dmhc.ca.gov](mailto:regulations@dmhc.ca.gov)  
**Mail:** Department of Managed Health Care  
Office of Legal Services  
Attn: Jennifer Willis, Senior Counsel  
980 9th Street, Suite 500  
Sacramento, CA 95814  
**Fax:** (916) 322–3968

Please note: if comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, including via the website, email, fax or mail, should include the author’s name and a U.S. Postal Service mailing address so the Department may provide commenters with notice of any additional proposed changes to the regulation text.

Please identify the action by using the Department’s rulemaking title and control number, **Prescription Drug Prior Authorization Request Form Process, Control No. 2012–3880** in any of the above inquiries.

CONTACTS

Inquiries concerning the proposed adoption of these regulations may be directed to:

**Jennifer Willis**  
Senior Counsel  
Department of Managed Health Care  
Office of Legal Services  
980 9th Street, Suite 500  
Sacramento, CA 95814  
(916) 324–9014  
(916) 322–3968 fax  
[jwillis@dmhc.ca.gov](mailto:jwillis@dmhc.ca.gov)

OR

**Emilie Alvarez**

Regulations Coordinator  
Department of Managed Health Care  
Office of Legal Services  
980 9th Street, Suite 500  
Sacramento, CA 95814  
(916) 445-9960  
(916) 322-3968 fax  
[ealvarez@dmhc.ca.gov](mailto:ealvarez@dmhc.ca.gov)

**AVAILABILITY OF DOCUMENTS**

The Department has prepared and has available for public review the Initial Statement of Reasons, text of the proposed regulation and all information upon which the proposed regulation is based (“rulemaking file”). This information is available by request to the Department of Managed Health Care, Office of Legal Services, 980 9th Street, Sacramento, CA 95814, Attention: Regulations Coordinator.

The Notice of Proposed Rulemaking Action, the proposed text of the regulation, and the Initial Statement of Reasons are also available on the Department’s website at the “[Open Pending Regulations](http://wpsso.dmhc.ca.gov/regulations/)” section of <http://wpsso.dmhc.ca.gov/regulations/>.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the Regulation Coordinator named above.

**AVAILABILITY OF MODIFIED TEXT**

The full text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days before the date the Department adopts the regulation. A request for a copy of any modified regulation(s) should be addressed to the Regulations Coordinator. The Director will accept comments via the Department’s website, mail, fax or email on the modified regulation(s) for 15 days after the date on which the modified text is made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth without further notice.

**AUTHORITY AND REFERENCE**

Pursuant to Health and Safety Code section 1341.9, the Department is vested with all duties, powers, purposes, responsibilities and jurisdiction as they pertain to health care service plans (“health plans”) and the health care service plan business.

Health and Safety Code section 1344 grants the Director authority to adopt, amend, and rescind regulations as necessary to carry out the provisions of the Knox-Keene Act, including rules governing applica-

tions and reports, and defining any terms as are necessary to carry out the provisions of the Knox-Keene Act.

Health and Safety Code section 1367.24 requires every health plan that provides prescription drug benefits to maintain an expeditious process by which prescribing providers may obtain authorization for non-formulary medically necessary prescription drugs. Section 1367.24 also requires every health plan that provides prescription drug benefits to provide the Department a description of its process, and requires the Department to review the health plans’ performance in providing prescription benefits during periodic onsite medical surveys.

Health and Safety Code section 1367.241 requires the Department and the Department of Insurance (“CDI”) to jointly develop a prior authorization form for use by every health plan and health insurer that provides prescription drug benefits, except as specified.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

This rulemaking action clarifies and makes specific the application of the law regarding the Prescription Drug Prior Authorization Request Form, numbered 61-211 (New 03/13), which is incorporated by reference in the regulation, and the prescription prior authorization process that must be followed by health plans.<sup>1</sup> See Prescription Drug Prior Authorization Request Form, numbered 61-211, attached hereto as Exhibit A.

Existing law requires health plans that provide prescription drug benefits to provide an efficient and timely process by which prescribing providers may obtain authorization for non-formulary, medically necessary prescription drugs pursuant to specified procedures. Health plans and insurers typically require providers to complete authorization forms when the provider prescribes a medicine or treatment which is not covered by the health plan or insurer formulary. Currently, each health plan develops and utilizes its own prior authorization forms, ultimately resulting in a significant number of varying prior authorization forms.

Although prior authorization has been shown to be effective in controlling prescription drug costs, the lack of uniformity between health plans’ and insurers’ prior authorization processes ultimately delays and negatively impacts patient care. Specifically, the lack of uniformity in the prior authorization process results in providers spending excessive amounts of time completing

<sup>1</sup> The Prescription Drug Prior Authorization Request Form and the prior authorization process must also be followed by pharmacy benefit managers contracted with health plans and by risk-bearing organizations, physicians or physicians groups that are delegated the financial risk by health plans for prescription drugs and the prior authorization process.

prior authorization forms, thus spending less of their time on patient care, and patients often experience significant delays before receiving the prescription drugs. Additionally, varying health plan processes also lead to delay and confusion in the authorization and prescription process.

In order to streamline the prior authorization process and improve access to prescription drugs, Health and Safety Code section 1367.241 requires the Department and the CDI to jointly develop a prior authorization form (Prescription Drug Prior Authorization Request Form, numbered 61–211), for use by every health plan and health insurer that provides prescription drug benefits, except as specified. Six months after the form is promulgated every prescribing provider requesting prior authorization for prescription drug benefits must submit a prior authorization form to the health plan. The health plans must utilize and accept the prior authorization form for prescription drug benefits. Except as specified, upon failure by a health plan to accept the prior authorization form or to respond to a prescribing provider within two business days, section 1367.241 deems the prior authorization request granted.

The regulation proposed in this rulemaking action clarifies and makes specific the requirements within State law, specifically Health and Safety Code section 1367.241, incorporates the Prescription Drug Prior Authorization Request Form by reference and delineates the process by which the form will be utilized and enforced.

#### BROAD OBJECTIVES AND BENEFITS OF THE REGULATION

Pursuant to Government Code section 11346.5(a)(3)(C), the broad objectives and benefits of this regulation are that it sets forth the process for the submission of and response to a uniform prior authorization for, the Prescription Drug Prior Authorization Request Form, the consequences for failing to respond as required, and the Department’s oversight and enforcement powers. The regulation also incorporates the Prescription Drug Prior Authorization Request Form by reference.

Specifically, sections (a) and (b) delineate the parties subject to compliance with the regulation and Department oversight, and require use of the Prescription Drug Prior Authorization Request Form. Section (c) requires the Prescription Drug Prior Authorization Request Form to be made electronically available pursuant to Health and Safety Code section 1367.241(d)(2), but for ease of submission does not require that it be electronically submitted pursuant to Health and Safety Code section 1367.241(d)(3). This section also addresses instances in which the patient no longer has coverage with the health plan. Sections (c), (d) and (e) also estab-

lish the scope of information the health plans, pharmacy benefit managers, risk-bearing organizations, physicians, and physician groups may request from the prescribing provider, the response time, the manner in which the response shall be delivered, and when a prior authorization is disapproved, an accurate and clear written explanation of the specific reasons for disapproving the prior authorization request must be provided. Consistent with Health and Safety Code section 1367.241(b), section (f) provides the consequence for a health plan, pharmacy benefit manager, risk-bearing organization, physician, and physician group’s failure to respond within two business days.

Prior to the enactment of Health and Safety Code section 1367.241, health plans developed and utilized their own prior authorization forms for non-formulary prescription drugs. The result was that providers had to complete varying health plan-specific prior authorization forms each time a non-formulary prescription drug was prescribed, and comply with health plans’ individualized processes. By creating and requiring that all parties subject to Health and Safety Code section 1367.241 and the regulation utilize a uniform prescription authorization form, the impact on patient care and the delay in provision of non-formulary prescriptions will be minimized.

By specifying the process with which providers, health plans, pharmacy benefit managers, risk-bearing organizations, physicians, and physician groups must comply in the submission of and response to the Prescription Drug Prior Authorization Request Form, the Department will have oversight over the process and the ability to enforce the parties’ obligations, specifically through section (g) of this regulation.

#### COMPARISON WITH EXISTING REGULATIONS

The regulation proposed in this rulemaking action is neither inconsistent nor incompatible with existing state regulations. The Department compared the following related existing regulation, California Code of Regulations, title 28, section 1300.67.24 and found no inconsistency or incompatibility with the proposed regulation.

#### ALTERNATIVES CONSIDERED

Pursuant to Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or has otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which the above 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 per-

sons and equally effective in implementing the statutory policy or other provisions of law.

The Department and the CDI drafted the proposed prior authorization form with input from stakeholder groups and jointly conducted pre-notice discussions pursuant to Government Code section 11346.45. Through written and verbal comments submitted during stakeholder workshops, the Department considered many alternative approaches and prior authorization forms presented by the stakeholders. Based on written and verbal comments from stakeholders, the Department and the CDI developed a revised prior authorization form that took into account the consumer and stakeholder input. The Department and the CDI finalized the prior authorization form after considering written comments from stakeholders. The final prior authorization form developed with substantial consumer and stakeholder input meets the demands of the individuals and businesses that will utilize the form on a daily basis.

The Department and the CDI considered the following alternative forms:

Alternative #1: CMS Medicare Part D Coverage Determination Request Form

The federal Centers for Medicare and Medicaid Services (“CMS”) uses the Medicare Part D Coverage Determination Request Form. This form provides basic information to enrollees and prescribers requesting coverage determinations (including exception requests) from Medicare Part D drug plans. However, use of the form is optional and plan sponsors must accept any written request for a coverage determination. If the form is used, the Medicare drug plan may require additional information or documentation to support the request. The form contains a disclaimer specifying that it cannot be used to request certain medications. The CMS standard turnaround time for review is 72 hours, or 24 hours for expedited review.

The CMS form is not a reasonable alternative to the form proposed by this regulation. The biggest drawback of the CMS form is that it is specifically adapted for Medicare Part D determinations. Health and Safety Code section 1367.241 requires that the prior authorization form be used by every health plan that provides prescription drug benefits. The CMS form does not offer sufficient flexibility in its format or information requested to be used as a standard form by all health plans.

Alternative #2: DHCS 50–1 Treatment Authorization Request Form (50–1 TAR):

Medical and pharmacy providers use the California Department of Health Care Services’ (“DHCS”) DHCS 50–1 Treatment Authorization Request Form (50–1 TAR) when requesting authorization from Medi-Cal offices. Authorization requests are submitted to the local Medi-Cal field office or the appropriate regional-

ized field office, and accompanied by documentation supporting the medical necessity of the service(s). The authorization request must include: principal and significant associated diagnoses; the physician or licensed medical practitioner’s signed prescription or inpatient doctor’s order; the medical condition necessitating the services; and the type, number, and frequency of services to be rendered by each provider. The 50–1 TAR form must be submitted prior to dispensing refills.

The 50–1 TAR form is submitted only to Medi-Cal offices, whereas the proposed form will be submitted to all health plans when authorization is required. The 50–1 TAR form includes a procedure code and other fields that are not required by the proposed form. The 50–1 TAR also does not allow information on whether the patient has started using the requested medication or has tried other medications for the condition. There is no space to provide for additional clinical information. The biggest drawback of the 50–1 TAR form is that it is specifically designed for Medi-Cal determinations and does not offer sufficient flexibility in the format or information requested to be used as a standard form for all health plans.

Alternative #3: CAHP Medication Prior Authorization Request Form

The proposed Prescription Drug Prior Authorization Request Form is substantially similar to the California Association of Health Plans’ (“CAHP”) medication prior authorization request form. The proposed form is more thorough in that it requires a plan or medical group phone number in addition to the plan or medical group facsimile number. The proposed form also requests a patient’s secondary insurance information, if applicable. Further, it allows a prescriber to check “other” under the “administration location” field, and includes space for an explanation. This gives prescribers the ability to explain an administration location if it is not included under the “administration location” choices. CAHP’s form does not give the option to check “other” under “administration location.”

CAHP’s form does not include an attestation clause before a prescriber’s required signature; the proposed form includes an attestation clause on the second page. Lastly, CAHP’s form requires prescribers to fill out all the fields on the form. The Department recognizes that not all the fields on the prior authorization request may be applicable to every patient, and the proposed form instructs a prescriber to fill out all *applicable* fields. For these reasons, the proposed form would provide health plans with more specific and thorough information than the CAHP form provides.

Alternative #4: Aetna Medical Exception/Precertification Request for Prescription Medications

Aetna uses its own medication prior authorization request form. The form requests information regarding whether the patient is currently hospitalized, and allows for ship and bill authorization information for where the patient is hospitalized. The form offers fewer options than the proposed form under the medication administration sites field, but includes a field with options for where to ship the medication. None of the fields request additional clinical information or comments to support the prior authorization request.

The Aetna form fails to require important information relevant to an authorization determination, such as medications previously taken for the condition, how long the medication was taken, and why the previous medication was unsuccessful. The form also does not require clinical or supplemental information that may be relevant to the prior authorization request. Lastly, the Aetna form is not a reasonable alternative to the regulation because it does not require sufficient information as a standardized form.

Alternative #5: ICE Medication Prior Authorization Request Form

Industry Collaboration Effort (“ICE”) uses its own medication prior authorization request form. The proposed form is more thorough than ICE’s form in that it requires a plan or medical group phone number in addition to the plan or medical group facsimile number. The proposed form also requests a patient’s secondary insurance information, if applicable. ICE’s form requires prescribers to fill out all the fields on the form. The Department recognizes that not all the fields on the prior authorization request may be applicable, and the proposed form instructs a prescriber to fill out all *applicable* fields. For these reasons, the proposed form would provide health plans with more specific information than the ICE form provides.

Alternative #6: CIGNA Medication Prior Authorization Form

Cigna uses its own medication prior authorization request form. For insurance information, the form only requests the patient’s “CIGNA ID.” The form does not request any information regarding the patient’s secondary insurance, if applicable, and is lacking in specific information necessary to make a medication authorization decision. Cigna’s form does not request the number of refills, whether the medication is a new medication or a renewal, the quantity of the medication to be administered, the administration method, the administration location, and the ICD–9/ICD–10 code for diagnoses.

The fields on the Cigna form are too broad in their requests for information related to the authorization. This practice may work well within Cigna because prescribers

know what is required in order to have a request authorized, but would not work when uniformly applied to all health plans. For these reasons, the Cigna form is not a reasonable alternative to the regulation.

Alternative #7: Rx America Prior Authorization Request Form

Rx America’s form is specific to Rx America, and for insurance information, requests only the patient’s identification number. The form does not request any information regarding the patient’s secondary insurance, if applicable. The form also lacks specificity in the requested information related to a medication authorization determination; it does not request information regarding whether the medication is a new medication or a renewal, any previous authorizations for the medication, the administration method, the administration location, and the ICD–9/ICD–10 code for diagnoses.

The fields on the Rx America form are too broad in their requests for information related to the authorization. This practice would not work when uniformly applied to all health plans. The Rx America form offers too much variability and little instruction as to the information that a prescriber must provide when requesting authorization.

Alternative #8: Molina Healthcare Medication Prior Authorization Request Form

Molina Healthcare uses its own medication request form for prescription medication authorizations. Molina’s one–page form requests only the patient’s Molina identification number for purposes of insurance, and does not allow for any information regarding a patient’s secondary insurance, if applicable. Molina’s form also does not request the quantity of the medication to be administered or the administration method.

The Molina form is too broad in its request for information related to the authorization. This practice may work well within Molina because prescribers know what is required in order to have a request authorized, but would not work when uniformly applied to all health plans. For these reasons, the Molina form is not a reasonable alternative to the proposed regulation.

Alternative #9: Prescription Solutions Medication Prior Authorization Request Form

Prescription Solutions’ (A UnitedHealth Group Company) form is specific to Prescription Solutions, and requests only the patient’s Prescription Solutions member identification number for insurance information. The form does not require information about the patient’s gender, height, weight, and allergies.

The Prescription Solutions form is not specific enough to be used as a standard form for all health plans. The form requires “directions for use” of the medication, but does not include important fields for specifying the frequency, length of therapy, number of refills,

quantity, administration method, and administration location. Providers would interpret “directions for use” differently and provide differing degrees of information. The form also does not allow the provision of additional clinical information to support the authorization request, and does not require sufficient information. For these reasons, the Prescription Solutions form is not a reasonable alternative to the regulation.

Alternative #10: Minnesota Uniform Form for Prescription Drug Prior Authorization Requests and Formulary Exceptions

The Minnesota Uniform Form for Prescription Drug Prior Authorization Requests and Formulary Exceptions is a form that can be used for prior authorization requests, formulary exceptions, or “unsure/unknown.” The form does not allow information for a patient’s secondary insurance information, if applicable, and does not require information regarding the administration location. The form also does not include an attestation clause or the option of including attachments, and does not even require a prescriber’s signature. The form is not solely for prior authorization requests and does not require sufficient information for all health plans to make authorization request determinations.

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

SUMMARY OF FISCAL IMPACT

- Mandate on local agencies and school districts: None.
- Cost or Savings to any State Agency: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Costs to private persons or businesses directly affected: 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 Housing Costs: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.

DETERMINATIONS

The Department has made the following initial determinations:

The Department has determined the regulation will not impose a mandate on local agencies or school dis-

tricts, nor are there any costs requiring reimbursement by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has determined the regulation will have no significant effect on housing costs.

The Department has determined the regulation does not affect small businesses. Health care service plans are not considered a small business under Government Code Section 11342.610(b) and (c).

The Department has determined the regulation 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.

The Department has determined that this regulation will have no cost or savings in federal funding to the state.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS (Government Code section 11346.3(b))

**Creation or Elimination of Jobs Within the State of California**

The regulation is designed to assist prescribing providers, health plans, physicians, and physician groups in the prior authorization process. Prior authorization processes are currently being performed by existing health plans, physicians, and physician groups; the regulation creates the statutorily required uniform prior authorization request form. In clarifying and interpreting California Health and Safety Code section 1367.241, no jobs in California will be created or eliminated.

**Creation of New Businesses or Elimination of Existing Businesses Within the State of California**

The regulation is designed to assist prescribing providers, health plans, physicians, and physician groups in the prior authorization process. Prior authorization processes are currently being performed by existing health plans, physicians, and physician groups; the regulation creates the statutorily required uniform prior authorization request form. In clarifying and interpreting California Health and Safety Code section 1367.241, no new businesses in California will be created or existing businesses eliminated.

**Expansion of Businesses or Elimination of Existing Businesses Within the State of California**

The regulation is designed to assist prescribing providers, health plans, physicians, and physician groups in the prior authorization process. Prior authorization processes are currently being performed by existing health plans, physicians, and physician groups; the regulation creates the statutorily required uniform prior authorization request form. In clarifying and interpreting California Health and Safety Code section 1367.241, no

existing businesses in California will be expanded or eliminated.

**BENEFITS OF THE REGULATION**

This regulation is designed to assist prescribing providers, health plans, physicians, and physician groups in the prior authorization process. Prior authorization processes are currently being performed by existing health plans, physicians, and physician groups; the regulation creates the statutorily required uniform prior authorization request form. This regulation may improve the health and welfare of California residents by reducing delays in requesting medications and controlling prescription drug costs. This regulation will not adversely affect the health and welfare of California residents, worker safety, or California’s environment.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF HEALTH CARE SERVICES**

**THE DEPARTMENT OF HEALTH CARE SERVICES IS IMPLEMENTING A PART OF THE “BY REPORT” REIMBURSEMENT METHODOLOGY FOR WHEELCHAIRS AND WHEELCHAIR ACCESSORIES**

This notice provides information of public interest about the California Department of Health Care Services’ (DHCS’) decision regarding implementation of a part of the reimbursement methodology for wheelchairs and wheelchair accessories when billed utilizing procedure codes with no specified maximum allowable rate (commonly referred to as “by report” reimbursement).

Subdivision (d) of Welfare and Institutions (W&I) Code section 14105.48 provides that reimbursement for all durable medical equipment billed to the Medi-Cal program, using procedure codes with no specified maximum allowable rate, shall be the lesser of the following:

- (1) The amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations.
- (2) The guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.
- (3) The actual acquisition cost plus a markup to be established by the department.
- (4) The manufacturer’s suggested retail purchase price on or prior to the date of service, and

documented by a printed catalog or a hard copy of an electronic catalog page showing that price, reduced by a percentage discount not to exceed 20 percent, or not to exceed 15 percent for wheelchairs and wheelchair accessories if the provider employs or contracts with a qualified rehabilitation professional, as defined in paragraph (3) of subdivision (c) of Section 14105.485.

- (5) A price established through targeted product-specific cost containment provisions developed with providers.

Effective for dates of service on or after April 1, 2013, DHCS will require providers to submit the actual acquisition cost (manufacturer’s purchase invoice that includes the cost) when submitting durable medical equipment claims, including claims for wheelchairs and wheelchair accessories, that are reimbursed pursuant to subdivision (d) of W&I Code section 14105.48 (set forth above).

Requiring providers to submit the manufacturer’s purchase invoice that includes the actual cost incurred by the providers for the purchase of durable medical equipment will enable DHCS to implement paragraph (3) of subdivision (d) of W&I Code section 14105.48. This required submission is in addition to the requirement for providers to submit the manufacturer’s suggested retail price (MSRP) which is used to implement paragraph (4) of subdivision (d) of section 14105.48.

**PUBLIC REVIEW AND QUESTIONS**

The California statutory and regulatory provisions discussed above are available for public review at county welfare offices throughout the State. Questions regarding this notice or requests for copies of the statute and regulations may be submitted to: Arlene Sakazaki, Chief, Provider Rate Section; Fee-For-Service Rates Development; Department of Health Care Services; MS 4612; P.O. Box 997417; Sacramento, CA 95899-7417.

**FISH AND GAME COMMISSION**

**NOTICE OF FINDINGS**

Pacific Fisher  
(*Martes pennanti*)

NOTICE IS HEREBY GIVEN that the California Fish and Game Commission, at its November 7, 2012, meeting in Los Angeles, met in Executive Session and pursuant to Court Order voted to set aside its September 15, 2010, findings rejecting the petition filed by the Center for Biological Diversity to list the Pacific fisher (*Martes pennanti*) as a threatened or endangered species under the California Endangered Species Act

(CESA) (Fish & G. Code, § 2050 et seq.). With Commission action setting aside its prior decision and findings, the Pacific fisher is a candidate species for purposes of CESA.

The Commission will reconsider the status of the species under CESA when the California Department of Fish and Wildlife completes and submits its status review as required by Fish and Game Code section 2074.6.

**FISH AND GAME COMMISSION**

**NOTICE OF FINDINGS**

Clear Lake Hitch  
(*Lavinia exilicauda chi*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission, at its March 6, 2013, meeting in Mount Shasta, California, accepted for consideration the petition submitted to list the Clear Lake hitch as a threatened or endangered species. Pursuant to subdivision (a)(2) of Section 2074.2 of the Fish and Game Code, the aforementioned species is hereby declared a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department of Fish and Wildlife shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the March 6, 2013, Commission meeting, are on file and available for public review from Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Written comments or data related to the petitioned action should be directed to the Commission at the aforementioned address.

**TITLE 27. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

**NOTICE OF REVISION OF PROPOSED SPECIFIC REGULATORY LEVEL AND AUGMENTATION OF RECORD FOR PROPOSED REGULATION TITLE 27, SECTION 25805 SPECIFIC REGULATORY LEVELS: CHEMICALS CAUSING REPRODUCTIVE TOXICITY SULFUR DIOXIDE MARCH 22, 2013**

The Office of Environmental Health Hazard Assessment (OEHHA) is revising the Maximum Allowable

Dose Level (MADL) for sulfur dioxide proposed for adoption into regulation (Title 27, California Code of Regulations, section 25805). The MADL was first proposed as 220 micrograms per day on July 6, 2012. **The new proposed MADL is 10,000 micrograms per day.** OEHHA is also augmenting the administrative record for the proposed regulation. The augmentation consists of data submitted to OEHHA in comments on the proposed regulation.<sup>1</sup> As required by Government Code section 11346.8(c), and Title 1, Section 44 of the California Code of Regulations, OEHHA is giving notice of this revision and augmentation. The proposed regulatory action is being taken pursuant to OEHHA's authority under Proposition 65.<sup>2</sup>

The Notice of Proposed Rulemaking for the proposed sulfur dioxide MADL was published on July 6, 2012, in the California Regulatory Notice Register (Register 2012, No. 27–Z, page 910), which initiated a public comment period. Written comments from the public were received during the comment period, which ended August 20, 2012. One comment stated that there was an error in a statistic presented in the papers published in the scientific literature that provided the lowest observable effect level (LOEL) which formed the basis for the MADL.<sup>3</sup> The comment stated that a rounding error in the statistical analysis resulted in a reduction in fetal weight being incorrectly reported as statistically significant (p<0.05). The commenter subsequently provided the original data records for the study to OEHHA. Re-analysis of the data by OEHHA confirmed that the commenter's statement was correct, and that the change in fetal weight at this exposure level was not statistically significant.

The study in question, by Murray et al., reported a developmental LOEL of 23.9 parts per million (ppm), based on the measured time-weighted sulfur dioxide concentration. OEHHA now considers this level as the no observable effect level (NOEL) for that study.

As noted in the Initial Statement of Reasons for the proposed regulation, another inhalation study by Singh (1989)<sup>4</sup> demonstrated reduced birth weight after prenatal exposure to sulfur dioxide. This effect was statistically significant for mice exposed to sulfur dioxide at 65

<sup>1</sup> Available at [http://www.oehha.ca.gov/prop65/law/pdf\\_zip/082812GMAso2.pdf](http://www.oehha.ca.gov/prop65/law/pdf_zip/082812GMAso2.pdf).

<sup>2</sup> The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 et seq.

<sup>3</sup> Murray FJ, Schwetz BA, Crawford AA, Henck JW, Quast JF, Staples RE (1979). Embryotoxicity of inhaled sulfur dioxide and carbon monoxide in mice and rabbits. *J Environ Sci Health C* 13(3):233–50.

Murray FJ, Schwetz BA, Crawford AA, Henck JW, Staples RE (1977). Teratogenic potential of sulfur dioxide and carbon monoxide in mice and rabbits. *Doe Symp Ser* 47: 469–478.

<sup>4</sup> Singh J (1989). Neonatal development altered by maternal sulfur dioxide exposure. *Neurotoxicology* 10(3): 523–7.

ppm for 24 hours/day. At 32 ppm, a reduction in birth weight was not statistically significant. Thus, the study by Singh (1989) provided a NOEL of 32 ppm for mice exposed for 24 hours/day and, for purposes of Proposition 65, is now the most sensitive study deemed to be of sufficient quality (Section 25803(a)(4)). Consequently, OEHHA has revised the proposed MADL.

REVISED PROPOSED MADL CALCULATION

The following calculations were performed in accordance with Section 25803 to derive the MADL for sulfur dioxide using data and exposure parameters from Singh (1989):

- Conversion of air concentration in ppm to milligrams per cubic meter (mg/m<sup>3</sup>) using a conversion factor of 2.64 mg/m<sup>3</sup> per ppm<sup>5</sup>  
(32 ppm x 2.64 [mg/m<sup>3</sup> per ppm]) = 84.48 mg/m<sup>3</sup>
- Calculation of the NOEL dose for a 30 gram mouse (0.030 kilograms [kg]) with an inhalation rate of 0.063 m<sup>3</sup>/day<sup>6,7</sup>  
(84.48 mg/m<sup>3</sup> x 0.063 m<sup>3</sup>/day) + (0.030 kg) = 177.41 mg/kg/day
- Calculation of the NOEL dose for a 58 kg woman  
177.41 mg/kg/day x 58 kg = 10289.78 mg/day, or 10,000 mg/day after rounding
- The MADL is derived by dividing the NOEL by one thousand (Section 25801(b)(1)). Thus, the adjusted NOEL was divided by 1,000 to obtain the MADL:  
**MADL = 10,000 mg/day ÷ 1000 = 10,000 micrograms/day**

OEHHA will accept written comments on this amendment to the proposed regulation and augmentation of the record through **May 6, 2013**. All written comments must be submitted to OEHHA no later than 5:00 p.m. on **May 6**.

The public is encouraged to submit written information via e-mail, rather than in paper form. Send e-mail comments to [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov). Please include "SULFUR DIOXIDE MADL" in the subject line. Hard-copy comments may be mailed, faxed, or delivered to:

<sup>5</sup> Office of Environmental Health Hazard Assessment (OEHHA), Evidence on the Developmental and Reproductive Toxicity of Sulfur Dioxide, OEHHA, California Environmental Protection Agency, Sacramento, California, February 2011, Available at [http://www.oehha.ca.gov/prop65/hazard\\_ident/pdf\\_zip/So2HID022511.pdf](http://www.oehha.ca.gov/prop65/hazard_ident/pdf_zip/So2HID022511.pdf).

<sup>6</sup> Bond JA, Dahl AR, Henderson RF, Dutcher JS, Mauderly JL, Birnbaum LS (1986). Species differences in the disposition of inhaled butadiene. *Toxicol Appl Pharmacol* **84**: 617-627.

<sup>7</sup> Depledge MH (1985). Respiration and lung function in the mouse, *Mus musculus* (with a note on mass exponents and respiratory variables). *Respir Physiol* **60**: 83-94.

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

A public hearing on this proposed regulatory amendment will be scheduled upon request. To request a hearing send an e-mail to Susan Luong at [susan.luong@oehha.ca.gov](mailto:susan.luong@oehha.ca.gov) or the address listed above by no later than **April 19, 2013**, which is 15 days before the close of the comment period. OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days before the public hearing date. The notice will provide the date, time, and location of the hearing.

Please direct inquiries concerning the proposed regulatory action described in this notice to Susan Luong, [susan.luong@oehha.ca.gov](mailto:susan.luong@oehha.ca.gov) or by calling (916) 327-3015. Monet Vela is a back-up contact person for inquiries concerning processing of this action and is available at: [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) or by telephone at (916) 323-2517.

**PROPOSITION 65**

**OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

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

**NOTICE OF INTENT TO LIST: HYDROGEN CYANIDE AND CYANIDE SALTS**

**March 22, 2013**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) intends to list the chemical hydrogen cyanide and cyanide salts as known to the State to cause reproductive toxicity (male reproductive toxicity endpoint) under the Safe Drinking Water and Toxic Enforcement Act of 1986.<sup>1</sup> This action is being proposed under the authoritative bodies listing mechanism.<sup>2</sup>

<sup>1</sup> 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.*

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

Chemical	CAS No.	Endpoint	Reference	Chemical Use
Hydrogen Cyanide (HCN) and Cyanide Salts (CN Salts)		Male Reproductive Toxicity	U.S. EPA (2010a and 2010b)	Used in mining, metallurgy, manufacturing, photography, electroplating, and as a rodenticide. Released from biomass burning, volcanoes, and natural processes. A component of tobacco smoke.

OEHHA requested information relevant to the possible listing of HCN and CN Salts in a notice published in the California Regulatory Notice Register on May 13, 2011 (Register 2011, Vol. No. 19Z). OEHHA received comments for this chemical.

**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 reproductive toxicity (Section 25306(d)<sup>3</sup>).
- 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. 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:** Hydrogen Cyanide and Cyanide Salts meet the criteria for listing as known to the State to cause reproductive toxicity (male reproductive toxicity endpoint) under Proposition 65, based on findings of the U.S. EPA (U.S. EPA, 2010a; 2010b).

**Formal identification and sufficiency of evidence for HCN and CN Salts:**

In 2010, U.S. EPA updated its online Integrated Risk Information System (IRIS) entry for hydrogen cyanide and cyanide salts (U.S. EPA, 2010a). The new oral chronic Reference Dose (RfD) of 0.0006 milligrams per kilogram bodyweight per day (mg/kg–day) was based on the male reproductive endpoint of decreased cauda epididymis weight in male F344/N rats. This ef-

fect on the male reproductive system was observed in a 13–week drinking water study (National Toxicology Program [NTP], 1993), with a BMDL1SD (lower 95% confidence limit on a benchmark dose associated with a 1 standard deviation (SD) change from the control mean) of 1.9 mg/kg–day.

In support of the IRIS entry, a comprehensive review and summary of the available toxicological data and the Agency’s evaluation were published as a Toxicological Review (U.S. EPA, 2010b). The U.S. EPA documents (2010a and 2010b) satisfy the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

U.S. EPA (2010a; 2010b, pp. 68–69) concludes that:

“In consideration of the available studies reporting low–dose effects of chronic and subchronic oral exposure to cyanide in animals, the NTP (1993) study was chosen as the principal study. . . . This study identified statistically significant male reproductive effects in rats and mice that increased in severity in a dose–dependent manner. The observed effects included decreased cauda and whole epididymis weights, decreased testes weight, and altered sperm parameters.”

“EPA has selected decreased cauda epididymis weight as the critical effect because it was determined that this effect represents the most sensitive endpoint indicative of male reproductive toxicity. The cauda epididymis is one of the three primary subsections of the epididymis (along with the caput and corpus) and functions as the site of sperm storage and maturation.”

U.S. EPA (2010b) concludes that:

“Reproductive effects, including decreased epididymis, cauda epididymis, and testis weights and decreased sperm parameters (epididymal sperm motility and testicular spermatid counts), have been observed in rats in a subchronic dietary study by NTP (1993). Decreases in the cauda epididymis and epididymis weights were also seen in mice (NTP, 1993). . . . Additionally, reproductive effects, specifically, alterations in testicular histology, have also been observed in a 14–week study in dogs (Kamalu, 1993).”

<sup>3</sup> All referenced sections are from Title 27 of the Cal. Code of Regulations.

U.S. EPA (2010b) reviews direct evidence of cyanide-induced male reproductive toxicity in rats, mice and dogs, as well as mechanistic support for this effect. Numerous studies cited by U.S. EPA's Toxicological Review document (2010b) demonstrate the adverse effects of cyanide on the function of the thyroid gland. Additional studies provide evidence for hypothyroidism as a cause of male reproductive damage both during development and in adult animals. On this basis, U.S. EPA (2010b) notes that "... the observed reproductive effects following exposure to cyanide may be mediated through decreases in thyroid hormones mediated through the cyanide metabolite thiocyanate."

**Request for comments:** OEHHA is committed to public participation in its implementation of Proposition 65. OEHHA wants to ensure that its regulatory decisions are based on a thorough consideration of all relevant information. OEHHA is requesting comments as to whether these chemicals meet the criteria set forth in the Proposition 65 regulations for authoritative bodies listings.

In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Monday, April 22, 2013.** We encourage you to submit comments via e-mail, rather than in paper form. Comments transmitted by e-mail should be addressed to [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov) with "NOIL" and "hydrogen cyanide and cyanide salts" in the subject line. Hard copy comments 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.

If you have any questions, please contact Ms. Oshita at [cynthia.oshita@oehha.ca.gov](mailto:cynthia.oshita@oehha.ca.gov) or at (916) 445-6900.

**References**

Kamalu, BP (1993). Pathological changes in growing dogs fed on a balanced cassava (*Manihot esculenta* Crantz) diet. *Br J Nutr* 69(3):921-934.

NTP (National Toxicology Program). (1993). NTP technical report on toxicity studies of sodium cyanide (CAS No. 143-33-9) administered in drinking water to

F344/N rats and B6C3F1 mice. NTP TR 37; NIH Publication 94-3386. Public Health Service, U.S. Department of Health and Human Services; NTP, Research Triangle Park, NC. Available online at [http://ntp.niehs.nih.gov/ntp/htdocs/ST\\_rpts/tox037.pdf](http://ntp.niehs.nih.gov/ntp/htdocs/ST_rpts/tox037.pdf).

U.S. EPA (U.S. Environmental Protection Agency) (2010a). Hydrogen Cyanide and Cyanide Salts (CASRN Various). Integrated Risk Information System. Available online at: <http://www.epa.gov/iris/subst/0060.htm>.

U.S. EPA (U.S. Environmental Protection Agency) (2010b). Toxicological Review of Hydrogen Cyanide and Cyanide Salts (CASRN Various); In Support of Summary Information on the Integrated Risk Information System (IRIS). EPA/635/R-08/016F. U.S. EPA, Washington DC, September. Available online at: <http://www.epa.gov/iris/toxreviews/0060tr.pdf>.

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

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

**NOTICE TO INTERESTED PARTIES  
March 22, 2013**

**Announcement of Chemicals Selected by OEHHA  
for Consideration for Listing by the Carcinogen  
Identification Committee and  
Request for Relevant Information on the  
Carcinogenic Hazards of these Chemicals**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of Proposition 65.<sup>1</sup> The Carcinogen Identification Committee (CIC) of OEHHA's Science Advisory Board serves as the State's qualified experts and renders an opinion about whether a chemical has been clearly shown to cause cancer.<sup>2</sup> The chemicals identified by the CIC are added to the Proposition 65 list.

OEHHA has selected the chemicals below for the CIC's review for possible listing under Proposition 65. OEHHA is initiating the development of hazard identification materials on these chemicals.

<sup>1</sup> Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.5 *et seq.*

<sup>2</sup> Title 27, Cal. Code of Regs., section 25302 *et seq.*

**Chemicals Selected for Preparation of Cancer Hazard Identification Materials**

Chemicals	CASNo.
N-Methyl-N-nitroso-1-alkylamines	—
N-Methyl-N-nitroso-1-octanamine	34423-54-6
N-Methyl-N-nitroso-1-decanamine	75881-22-0
N-Methyl-N-nitroso-1-dodecanamine	55090-44-3
N-Methyl-N-nitroso-1-tetradecanamine	75881-20-8

These chemicals were selected using the procedure described in the document: “Process for Prioritizing Chemicals for Consideration under Proposition 65 by the State’s Qualified Experts.” This document is available on the Internet at [http://www.oehha.ca.gov/prop65/CRNR\\_notices/state\\_listing/pdf/finalPriordoc.pdf](http://www.oehha.ca.gov/prop65/CRNR_notices/state_listing/pdf/finalPriordoc.pdf).

OEHHA selected these chemicals from those prioritized by the CIC in 2011. For details follow this link: [http://www.oehha.ca.gov/prop65/public\\_meetings/cic101211synop.html](http://www.oehha.ca.gov/prop65/public_meetings/cic101211synop.html).

Hazard identification materials for these chemicals will be presented at a future CIC meeting for Committee consideration of possible listings of the chemicals under Proposition 65.

By this notice, OEHHA is giving the public an opportunity to provide information relevant to the assessment of the evidence of carcinogenicity for N-methyl-N-nitroso-1-alkylamines, N-methyl-N-nitroso-1-octanamine, -decanamine, -dodecanamine, and -tetradecanamine. Relevant information includes but is not limited to:

- cancer bioassays
- cancer epidemiological studies
- genotoxicity testing
- other pertinent data on:
  - pharmacokinetics
  - biomarkers
  - effects on biochemical and physiological processes in humans

Interested parties or members of the public wishing to provide such information should send it to the address given below.

The publication of this notice marks the start of a 60-day data call-in period, ending on **Tuesday, May 21, 2013**. The information received during this period will be reviewed and considered by OEHHA as it prepares the cancer hazard identification documents on these chemicals.

Hazard identification documents are made available to the public for comment prior to the CIC’s consideration of the chemical for possible listing. Their availability for comment will be announced in the *California*

*Regulatory Notice Register* and on OEHHA’s website. Public comments received on these documents are sent to the CIC for its consideration prior to the CIC meeting at which the chemicals will be considered for listing. The time, date, location, and agenda of the CIC meeting where a chemical will be considered for listing will also be published in the *California Regulatory Notice Register* and posted on OEHHA’s website.

We encourage you to submit relevant information responsive to this request in electronic form, rather than in paper form. Submissions transmitted by e-mail should be addressed to [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov). Please include “N-Methyl-N-nitroso-1-alkylamines” in the subject line. Submissions 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) 323-2265  
 Street Address: 1001 I Street  
 Sacramento, California 95814

**In order to be considered at this point in the process, the relevant information must be received at OEHHA by 5:00 p.m. on Tuesday, May 21, 2013.**

**DECISION NOT TO PROCEED**

**BUREAU OF AUTOMOTIVE REPAIR**

The Bureau of Automotive Repair has decided not to proceed with its rulemaking action described in the Notice published in the California Regulatory Notice Register on March 30, 2012, OAL File # Z2012-0320-01, concerning Title 16, sections 3369.1 and 3369.2.

**DISAPPROVAL DECISION**

**DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS**

Printed below are the summaries of Office of Administrative Law disapproval decisions. The full text of disapproval decisions is available at [www.oal.ca.gov](http://www.oal.ca.gov) under the “Publications” tab. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225 — FAX (916) 323-6826. Please request by OAL file number.

**BOARD OF FORESTRY AND FIRE PROTECTION**

State of California Office of Administrative Law

**In re: Board of Forestry and Fire Protection  
Regulatory Action:**

**Title 14, California Code of Regulations**

**Adopt sections: 1299.03(b)(2)(A),  
and portion of General Guidelines  
for Creating Defensible Space, 2/8/13,  
incorporated by reference by  
section 1299.03(b)(1)**

**DECISION OF DISAPPROVAL  
OF REGULATORY ACTION**

**Government Code Section 11349.3**

**OAL File No. 2013-0122-02SR**

**DECISION SUMMARY**

On January 22, 2013, the Board of Forestry and Fire Protection (BOFFP) submitted to the Office of Administrative Law (OAL) the proposed adoption of section 1299.03(b)(2)(A), among other sections, of Title 14 of the California Code of Regulations (CCR), which included the adoption of a document, *General Guidelines for Creating Defensible Space (General Guidelines)*, which was incorporated by reference in proposed section 1299.03(b)(1). These regulations specify rules for vegetation clearance and maintenance around buildings and structures in State Responsibility Areas to ensure fire-defensible space.

OAL disapproved proposed section 1299.03(b)(2)(A) and a portion of the *General Guidelines* because they conflict regarding the allowable depth of "surface litter," which was defined in the *General Guidelines* as consisting of fallen leaves or needles, twigs, bark, cones, and small branches. Section 1299.03(b)(2)(A) permitted surface litter to a maximum depth of four inches. The *General Guidelines* permitted surface litter to a depth of three inches. The conflict in this requirement within the regulations results in a failure of the regulations to meet the Clarity standard of Government Code section 11349.1(a)(3) of the Administrative Procedure Act (APA).

On March 6, 2013, OAL notified the BOFFP that OAL had disapproved a portion of this regulatory ac-

tion because it failed to comply with the Clarity standard of the APA.

**CONCLUSION**

For the foregoing reasons, OAL disapproved the proposed adoption of section 1299.03(b)(2)(A) and that portion of the incorporated *General Guidelines* which conflicts with it. Prior to any resubmission of these provisions to OAL for review, BOFFP must reconcile the conflict created by them and make any revised text of proposed section 1299.03(b)(2)(A) and that portion of the *General Guidelines* not approved by OAL available pursuant to Government Code section 11346.8(c) and Title 1 CCR section 44. Pursuant to Government Code section 11349.4(a), BOFFP shall have 120 days from the date of receipt of this Decision of Disapproval to re-submit this matter to OAL for review.

Date: March 12, 2013

\_\_\_\_\_  
Dale Mentink  
Senior Staff Counsel

For: Debra M. Cornez  
Director

Original: George Gentry

Copy: Eric Huff

**OAL REGULATORY DETERMINATION**

**DETERMINATION OF ALLEGED UNDERGROUND REGULATION  
(Summary Disposition)**

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

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

**DEPARTMENT OF CORRECTIONS AND REHABILITATION**

Date: March 7, 2013  
To: DeVonne O'Dell  
From: Chapter Two Compliance Unit

Subject: **2013 OAL DETERMINATION NO. 2 (S)**  
**(CTU2013-0110-01)**

(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation memorandum titled “Gate Pass Clearances”

On January 7, 2013, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether a memorandum titled “Gate Pass Clearances” constitutes an underground regulation. The memorandum is dated July 9, 2010, and was issued by the warden of the California Substance Abuse Treatment Facility and State Prison at Corcoran. The memorandum is attached hereto as Exhibit A.

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

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

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

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

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

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

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

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

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

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

. . .

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

Similarly, the rule challenged by your petition was issued by the warden of the California Substance Abuse Treatment Facility and State Prison at Corcoran and applies solely to the inmates of the California Substance Abuse Treatment Facility and State Prison at Corcoran. Therefore, the rule is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.<sup>3</sup>

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

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

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

(A) The challenged rule has been superseded.  
 (B) The challenged rule is contained in a California statute.  
 (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.  
 (D) The challenged rule has expired by its own terms.  
**(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** (Emphasis added.)

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

/s/  
Debra M. Cornez  
Director

/s/  
Kathleen Eddy  
Senior Counsel

Copy: Dr. Jeffrey Beard  
Tim Lockwood

**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# 2013-0131-01  
BOARD OF EQUALIZATION  
Interstate and Foreign Commerce

This change without regulatory effect conforms the provisions of Title 18 California Code of Regulations section 1620 to changes made in the governing statute (Revenue and Taxation Code section 6248) by Assembly Bill 1547, Chapter 545 of 2009, Senate Bill 1330, Chapter 328 of 2010, and Assembly Bill 242, Chapter 727 of 2011.

Title 18  
California Code of Regulations  
AMEND: 1620  
Filed 03/11/2013  
Agency Contact:  
Richard E. Bennion (916) 445-2130

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 imple-

ment 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# 2013-0129-04  
BOARD OF PHARMACY  
Emergency Contraception

This rulemaking by the California State Board of Pharmacy amends section 1746, title 16, of the California Code of Regulations. Specifically, this rulemaking amends the protocol utilized by pharmacists to furnish emergency contraception (EC) drug therapy pursuant to the protocol developed and approved by the Medical Board of California and the California State Board of Pharmacy.

Title 16  
California Code of Regulations  
AMEND: 1746  
Filed 03/13/2013  
Effective 07/01/2013  
Agency Contact: Carolyn Klein (916) 574-7913

File# 2013-0128-03  
CALIFORNIA DEBT LIMIT ALLOCATION  
COMMITTEE  
Administration of California's Limited Tax-Exempt  
Debt Authority Performance Deposit

This regulatory filing is a certificate of compliance for an emergency regulatory action adopted by the California Debt Limit Allocation Committee (CDLAC) that amended sections 5000 and 5052 of title 4 of the California Code of Regulations to allow the full refund of the performance deposit if 80% or more of the Allocation is used to issue bonds or issue at least one (1) Mortgage Credit Certificate prior to the expiration date.

Title 4  
California Code of Regulations  
AMEND: 5000, 5052  
Filed 03/12/2013  
Effective 03/12/2013  
Agency Contact: Misti Armstrong (916) 653-3461

File# 2013-0129-03  
CALIFORNIA LIBRARY SERVICES BOARD  
Public Library Programs, Administration

This change without regulatory effect amends three sections and repeals 34 sections of the California Library Services Board due to SB 1044 (Stats. 2012, c. 219, eff. 1/1/2013) that repealed the provisions that re-

quired the establishment of a specified advisory board and specified the terms of board members and duties of the board. SB 1044 also repealed the Library of California Act that augmented the services provided under the California Library Services Act, established regional library networks composed of libraries that agree to share services and resources with one another, and also established the Library of California Board. Regulations implementing the Library of California Act are being repealed.

Title 5  
California Code of Regulations  
AMEND: 20135, 20136, 20140  
REPEAL: 20145, 20300, 20301, 20302, 20303,  
20304, 20305, 20306, 20307, 20308, 20309, 20310,  
20311, 20312, 20313, 20314, 20315, 20316, 20317,  
20318, 20319, 20320, 20321, 20322, 20323, 20324,  
20325, 20326, 20327, 20328, 20329, 20330, 20331,  
20332  
Filed 03/13/2013  
Agency Contact: Sandy Habbestad (916) 653-7532

File# 2013-0125-04  
DEPARTMENT OF CORRECTIONS AND  
REHABILITATION  
Nonsubstantive Changes

This filing amends several sections in title 15 as changes without regulatory effect to reflect the changes that occurred due to the Department's statutory reorganization in 2005, such as, changing the name from Director to Secretary, amending the Department's name to Department of Corrections and Rehabilitation, and changing Board of Prison Terms to Board of Parole Hearings.

Title 15  
California Code of Regulations  
AMEND: 3000, 3002, 3021, 3041, 3041.2, 3045.3,  
3075.1, 3075.2, 3082, 3103, 3144, 3172.2, 3177,  
3230, 3270, 3275, 3278, 3288, 3324, 3338, 3367,  
3368, 3369, 3371.1, 3376, 3379, 3380, 3401.5,  
3404, 3415 and CDC 345 (Rev. 5/95)  
Filed 03/11/2013  
Agency Contact: Anthony Carter (916) 445-2220

File# 2013-0125-01  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
Financial Management Services — Participant-  
Directed Services

The Department of Developmental Services submitted this timely Certificate of Compliance action to make permanent several adoptions and amendments in Title 17 of the California Code of Regulations. The purpose of this rulemaking is to ensure that the Department of Developmental Services continues to receive federal

funds for respite, day care, nursing and transportation services. In order to continue to receive federal funds these services when offered in the Home and Community-Based Services Waiver must be offered in conjunction with the use of a Financial Management Service provider (FMS). The FMS provider assists a family member or adult consumer in verifying worker eligibility status, collecting and processing timesheets of workers, processing payroll, withholdings, filing and payment of applicable federal, state and local employment-related taxes and insurance, performing billing payments and reimbursements as authorized, and maintaining all source documents related to the authorized service(s).

Title 17  
California Code of Regulations  
ADOPT: 58884, 58886, 58887, 58888  
AMEND: 50604, 54355, 58543  
Filed 03/11/2013  
Effective 03/11/2013  
Agency Contact: Diana Nicolaou (916) 654-1760

File# 2013-0228-04  
DEPARTMENT OF INSURANCE  
Mental Health Parity

The Department of Insurance submitted this emergency action to adopt sections 2562.1, 2562.2, 2562.3, and 2562.4 to title 10 of the California Code of Regulations. The regulations pertain to insurer coverage under disability or health insurance policies, as further specified under Insurance Code sections 10144.5 and 10144.51, of therapies for individuals diagnosed with pervasive developmental disorder or autism. The regulations prohibit specified conditions or limitations on coverage of these therapies when determined to be medically necessary to ensure compliance with the Mental Health Parity Act.

Title 10  
California Code of Regulations  
ADOPT: 2562.1, 2562.2, 2562.3, 2562.4  
Filed 03/11/2013  
Effective 03/11/2013  
Agency Contact: George Teekell (415) 538-4390

File# 2013-0201-04  
DEPARTMENT OF INSURANCE  
Workers' Compensation Pure Premium Rates

This action makes amendments to the California Workers' Compensation Uniform Statistical Reporting Plan — 1995, the California Workers' Compensation

Experience Rating Plan — 1995 and the Miscellaneous Regulations for the Recording and Reporting of Data. The plans are incorporated by reference in title 10, CCR, sections 2318.6, 2353.1 and 2354 with full text being available at the Insurance Commissioner's offices as well as being published by the Workers' Compensation Insurance Rating Bureau of California, a licensed workers' compensation insurance rating organization.

Title 10  
California Code of Regulations  
AMEND: 2318.6, 2353.1, 2354  
Filed 03/13/2013  
Effective 01/01/2013  
Agency Contact:  
Christopher A. Citko (916) 492-3187

File# 2013-0201-05  
DEPARTMENT OF INSURANCE  
Workers' Compensation Pure Premium Rates

This action makes amendments to the California Workers' Compensation Uniform Statistical Reporting Plan — 1995, the California Workers' Compensation Experience Rating Plan — 1995 and the Miscellaneous Regulations for the Recording and Reporting of Data. The plans are incorporated by reference in title 10, CCR, sections 2318.6, 2353.1 and 2354 with full text being available at the Insurance Commissioner's offices as well as being published by the Workers' Compensation Insurance Rating Bureau of California, a licensed workers' compensation insurance rating organization.

These amendments are exempt from the APA process and OAL review under the "rate, price or tariff" exemption of GC 11340.9(g). Amendments are effective 7/1/2012.

Title 10  
California Code of Regulations  
AMEND: 2318.6, 2353.1, 2354  
Filed 03/11/2013  
Effective 07/01/2012  
Agency Contact:  
Christopher A. Citko (916) 492-3187

File# 2013-0123-01  
DEPARTMENT OF MOTOR VEHICLES  
Ignition Interlock Devices — AB 520

This rulemaking action by the Department of Motor Vehicles establishes a fee sufficient to cover the costs of administering various new components of the California Ignition Interlock Device Program, as amended by Assembly Bill (AB) 520 (Stats. 2011, Ch. 657).

Title 13  
California Code of Regulations  
AMEND: 125.12, 125.16, 126.00, 126.02, 127.00,  
127.08  
Filed 03/07/2013  
Effective 07/01/2013  
Agency Contact: Randi Calkins (916) 657-8898

File# 2013-0128-01  
DEPARTMENT OF PUBLIC HEALTH  
Name Changes of Professional Licensing Boards and  
Professionals

The California Department of Public Health is amending various sections within Title 22 of the California Code of Regulations. These changes without regulatory effect amend sections in Title 22 to update the names of the Boards, Departments or Associations that license, register or accredit health care professions and additionally updates the titles of these professions as necessary.

Title 22  
California Code of Regulations  
AMEND: 70055, 70217, 70263, 70275, 70405,  
70483, 70485, 70579, 70619, 70706.1, 70707.8,  
70747, 71053, 71215, 71245, 71547, 72003, 72013,  
72035, 72037, 72057, 72059, 72075, 72083, 72085,  
72087, 72089, 72097, 72105, 72107, 72329,  
72329.1, 72351, 72361, 72465, 72467, 73009,  
73023, 73031, 73057, 73059, 73073, 73075, 73081,  
73083, 73085, 73087, 73103, 73109, 73319, 73411,  
73483, 74011, 74013, 74023, 74405, 74615, 74617,  
74623, 74631, 74633, 74635, 74641, 74643, 74645,  
74647, 74653, 74657, 75002, 75006, 75011, 75012,  
75015, 75016, 75018, 75020, 75054, 75081, 75301,  
75305, 75307, 75341, 76003, 76013, 76043, 76049,  
76051, 76089, 76109, 76111, 76117, 76119, 76121,  
76123, 76130, 76131, 76141, 76149, 76151, 76800,  
76808, 76809, 76825, 76832, 76894, 76896, 76916,  
78033, 78037, 78057, 78067, 78071, 78077, 78081,  
78083, 78089, 78091, 78097, 78103, 78347, 79001,  
79023, 79070, 79073, 79215, 79311, 79347, 79501,  
79519, 79523, 79539, 79541, 79543, 79551, 79559,  
79563, 79565, 79573, 79803  
Filed 03/12/2013  
Agency Contact: Dawn Basciano (916) 440-7367

File# 2013-0129-02  
DEPARTMENT OF REHABILITATION  
Order of Selection

This rulemaking action by the Department of Rehabilitation amends the "Order of Selection" rules within title 9 of the California Code of Regulations to clarify how the department prioritizes offered services when

financial and human resources are insufficient to provide services to every eligible disabled person.

Title 9  
California Code of Regulations  
AMEND: 7071.2, 7071.5, 7021, 7051, 7053  
Filed 03/13/2013  
Effective 07/01/2013  
Agency Contact: Shelly Risbry (916) 445-4466

File# 2013-0207-02  
DIVISION OF WORKERS COMPENSATION  
Workers' Compensation-Official Medical Fee  
Schedule-Inpatient Hospital

These amendments to Title 8 of the California Code of Regulations are exempt from the requirements of the Administrative Procedure Act pursuant to Labor Code section 5307.1. These amendments replace the medical fee schedules in sections 9789.23 and 9789.24 with cross references to the same data on the Division of Workers' Compensation internet website. The amendments also update provisions of section 9789.25 regarding discharges occurring on or after March 15, 2013.

Title 8  
California Code of Regulations  
AMEND: 9789.23, 9789.24, 9789.25  
Filed 03/13/2013  
Effective 03/15/2013  
Agency Contact: Jarvia Shu (510) 286-0646

File# 2013-0130-04  
STATE ALLOCATION BOARD  
Leroy F. Greene School Facilities Act of 1998; MPR/  
Gymnasium Hybrids

This regulatory action by the State Allocation Board amends Title 2, sections 1859.2 and 1859.77.3 of the California Code of Regulations to allow qualifying school districts to use their eligibility for school bond funding for construction of Multipurpose Room/Gymnasium Hybrid facilities.

Title 2  
California Code of Regulations  
AMEND: 1859.2, 1859.77.3  
Filed 03/12/2013  
Effective 04/01/2013  
Agency Contact: Lisa Jones (916) 376-1753

File# 2013-0130-05  
STATE ALLOCATION BOARD  
Leroy F. Green School Facilities Act of 1998; Beyond  
SFP Bond Authority

This rulemaking action makes permanent the State Allocation Board's emergency regulations concerning beyond-bond-authority school construction and modernization funding applications. The regulations,

among other things, clarify for applicants the contingencies and expectations for apportionments for applications placed on the beyond-bond-authority list.

Title 2  
 California Code of Regulations  
 ADOPT: 1859.95.1  
 AMEND: 1859.2, 1859.95  
 Filed 03/11/2013  
 Effective 03/11/2013  
 Agency Contact: Lisa Jones (916)376-1753

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN October 17, 2012 TO  
 March 13, 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**

03/12/13 AMEND: 1859.2, 1859.77.3  
 03/11/13 ADOPT: 1859.95.1 AMEND: 1859.2, 1859.95  
 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)  
 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**

03/12/13 AMEND: 5000, 5052  
 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

**CALIFORNIA REGULATORY NOTICE REGISTER 2013, VOLUME NO. 12-Z**

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

**Title 5**

03/13/13 AMEND: 20135, 20136, 20140 REPEAL: 20145, 20300, 20301, 20302, 20303, 20304, 20305, 20306, 20307, 20308, 20309, 20310, 20311, 20312, 20313, 20314, 20315, 20316, 20317, 20318, 20319, 20320, 20321, 20322, 20323, 20324, 20325, 20326, 20327, 20328, 20329, 20330, 20331, 20332  
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  
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12/24/12 ADOPT: 18224.6, 18227, 18227.1 AMEND: 18078, 18409, 18411, 18424, 18426  
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