



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 (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: Metro Gold Line Phase II Construction Authority
 Metro Gold Line Foothills Extension Construction Authority

AMENDMENT

MULTI-COUNTY: East Bay Regional Park District
 Dublin San Ramon Services District

STATE AGENCY: State Senate

A written comment period has been established commencing on March 27, 2015, and closing on **May 11, 2015**. Written comments should be directed to the Fair Political Practices Commission, Attention Ivy Branaman, 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 her review, unless any interested person or his/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.

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 11, 2015**. 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 Ivy Branaman, 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 Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. STATE ALLOCATION BOARD

**THE STATE ALLOCATION BOARD PROPOSES
TO AMEND REGULATION SECTION 1859.163.1,
TITLE 2, CALIFORNIA CODE OF
REGULATIONS, RELATING TO LEROY F.
GREENE SCHOOL FACILITIES ACT OF 1998**

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced Regulation Section, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation section under the authority provided by Sections 17070.35 and 17078.64 of the Education Code, and makes specific reference to Sections 17078.52, 17078.58, and 17250.30 of the Education Code and Section 1771.3 of the Labor Code.

**INFORMATIVE DIGEST/POLICY OVERVIEW
STATEMENT**

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school

districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on October 8, 1999.

The SAB, at its October 16, 2014 meeting, adopted proposed regulatory amendments to the SFP Regulations that would align the Charter School Preliminary Apportionment general site development grant with the New Construction general site development grant. This will ensure that this additional grant is calculated equally and consistently so that the Charter School Preliminary Apportionment does not result in increased bond authority being reserved for the project that will not be necessary at the time the project converts to a Final Charter School Apportionment. After four or five years when the project converts, the Charter School Preliminary Apportionment amount should be close to the calculated Final Charter School Apportionment amount. This allows charter school applicants funding to more accurately develop a budget for their construction project(s) as they move through the planning process. As a reminder, the general site development additional grant helps school districts and charter schools cover the extra costs for items such as landscaping, finish grading, driveways, walkways, outdoor instructional play facilities, permanent playground equipment, and athletic fields. School districts may be eligible for the additional grant when building new schools and for additions to existing school sites where additional acreage is acquired.

Bond Funds Impacted

The following three State school bonds were authorized by the Legislature and approved by the State's electorate for purposes of school facility construction for the Charter School Facilities Program (CSFP):

- Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47)
- Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D)

Background and Problem Being Resolved

The proposed regulation resolves the problem of the inconsistent calculation of the general site development for Charter School Preliminary Apportionments outlined in Regulation Section 1859.163.1(a)(4) compared to the calculation outlined in Regulation Section 1859.76(d). Under the CSFP, when a Charter School Preliminary Apportionment is calculated, it includes the same grants as a full funding new construction grant approval. However, the current reading of Regulation Section 1859.163.1(a)(4) would calculate the general

site development at twice the amount thereby resulting in an increase in bond authority being reserved for the Charter School Preliminary Apportionment for the project. Charter School Preliminary Apportionment amounts should be close to what the project will receive when it converts to a Final Charter School Apportionment. This allows charter school applicants funding to more accurately develop a budget for their construction project(s) as they move through the planning process.

The specific regulatory language of the proposed regulatory action may be viewed on the OPSC Web site at www.dgs.ca.gov/opsc. Copies of the amended regulatory text will be mailed to any person requesting this information by using the OPSC contact information set forth below. The proposed regulations amend the SFP Regulations under the CCR, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998.

Anticipated Benefits of the Proposed Regulations

The proposed regulation aligns an inconsistent calculation of the general site development for Charter School Preliminary Apportionments outlined in Regulation Section 1859.163.1(a)(4). With the deletion of three words, the integrity of the SFP will be maintained because increased bond authority will not be reserved for Charter School Preliminary Apportionments. Further, when the projects convert to Final Charter School Apportionments, the amount of the Final Charter School Apportionment should be close to what the initial Charter School Preliminary Apportionment was for the project. This benefits the SFP as well as the State in ensuring the integrity of the bond funds.

The proposed regulatory amendments are therefore determined to be consistent and compatible with existing State laws and regulations.

Summary of the proposed regulatory amendment is as follows:

Existing Regulation Section 1859.163.1 establishes construction cost funding caps for Preliminary Charter School Apportionment determinations, based upon grade level(s) of the project and urban or non-urban location. The proposed regulatory amendments align the general site development grant calculation with the new construction general site development grant calculation outlined in Regulation Section 1859.76(d).

Statutory Authority and Implementation

Education Code Section 17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Determination of Inconsistency or Incompatibility with Existing State Regulations

The proposed regulatory amendments align the calculation for the general site development grant for Charter School Preliminary Apportionments with the general site development grant for new construction projects. Without this proposed regulation, increased bond authority would be reserved beyond what the Charter School Preliminary Apportionment should be when the project converts to a Final Charter School Apportionment. This would not be a prudent use of bond funds because consistency in the application of the calculation would not be maintained.

After conducting a review, the OPSC, on behalf of the SAB, has concluded that this is the only regulation on this subject area, and therefore, the proposed regulation is neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulatory amendments are within the SAB's authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulation does not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require school districts or charter schools to incur additional costs in order to comply with the proposed regulation.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulation creates no costs to any local agency, school district, or charter school requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulation creates no costs or savings to any state agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact to Businesses and Jobs in California

There is a positive economic impact to California businesses because school districts and charter schools building new construction projects will contract with businesses and suppliers for necessary landscaping, finish grading, driveways, walkways, outdoor instructional play facilities, permanent playground equipment, and athletic fields, including the companies which supply the materials for these improvements. The proposed regulation indirectly creates an unknown amount of (temporary) jobs in landscaping, concrete, asphalt, finishing, playground and athletic field equipment, and other construction trades, along with stimulating the economy.

Therefore, the proposed regulation will not negatively impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulation will result in the elimination of existing businesses or jobs within California.

Benefits to Public Health and Welfare, and the State's Environment

There is no health and safety impact assigned to this regulatory amendment. There is no impact to the State's environment from the proposed regulation. This regula-

tory amendment deletes three words that specifically apply to the calculation of the general site development grant for a Charter School Preliminary Apportionment.

EFFECT ON SMALL BUSINESSES

It has been determined that the amendments to the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The regulations only apply to school districts and charter schools for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than May 11, 2015 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator

Mailing

Address: Office of Public School
Construction
707 Third Street, 9th Floor
West Sacramento, CA 95605

E-mail

Address: lisa.jones@dgs.ca.gov
Fax No.: (916) 375-6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Ron Koepl at (916) 375-2032. If Mr. Koepl is unavailable, these questions may be directed to the backup contact person, Ms. Lisa Jones, Supervisor, Regulations Team, at (916) 376-1753.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as

proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulations coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at <http://www.dgs.ca.gov/opsc> under "Resources," then click on "Laws and Regulations," then click on "SFP Pending Regulatory Changes."

ALTERNATIVES

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulations coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 5. EDUCATION AUDIT APPEALS PANEL

Supplement to Audits of K-12 Local Education Agencies
Fiscal Year 2014-15

The Education Audit Appeals Panel (EAAP) proposes to amend the Audit Guide regulations as described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the written comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be addressed to Timothy Morgan.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes at **5:00 p.m. on Monday, May 11, 2015**. EAAP will consider only written comments received by

that time. Written comments for EAAP’s consideration should be directed to:

Christine Pentoney
Education Audit Appeals Panel
770 L Street, Suite 1100
Sacramento, CA 95814

Fax: (916) 445-7626
e-mail: cpentoney@eaap.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Section 14502.1, Education Code.

Reference: Sections 14501, 14502.1, 14503, and 41020 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking, and the emergency adoption already made, amends title 5, California Code of Regulations, section 19810 to clarify the incorporation by reference language and make reference to the supplemental audit guide. It also adopts the supplemental audit guide for 2014–15 which makes clarifying revisions and addresses legislative changes in the conditions of apportionment of school funding.

This rulemaking meets the requirements of Education Code section 14502.1, which mandates that an annual audit guide be adopted by the EAAP. The purpose of the audit guide is to define terms and specify procedures to guide accountants in the conduct of statutorily required financial and compliance audits of K–12 local education agencies. The Controller, pursuant to Education Code section 14502.1, has proposed amendments to supplement the audit guide for fiscal year 2014–15. The proposed changes derive from the Controller’s proposals and also contain changes designed to clarify audit steps.

EAAP does not anticipate that these proposed amendments would create specific benefits for the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, nor the increase in openness and transparency in business and government. EAAP has determined that the proposed amendments will ultimately benefit the welfare of California residents by ensuring that local education agencies are in compliance with regulatory requirements. In developing the rulemaking, EAAP evaluated the proposed changes to regulations and determined that they are not

inconsistent or incompatible with existing regulations, state or federal.

A description of proposed changes to section 19810, and a discussion of revisions to the audit guide, follow.

Title 5, Division 1.5 Chapter 3. Audits of California K – 12 Local Education Agencies Article 2 Audit Reports

§ 19810. Annual Audit Guides.

The “2014–15 Guide for Annual Audits for ~~of~~ K–12 Local Education Agencies and State Compliance Reporting” (~~July 1, 2014~~March 1, 2015), published by the Education Audit Appeals Panel, is incorporated by reference. The guide provides the audit steps, reporting requirements, and other guidance, for the required annual financial and compliance audits, subject to auditor judgment where alternative or additional audit steps may be appropriate. Each annual guide and any applicable supplement are available on www.eaap.ca.gov/audit-guide, with paper or electronic copies available on request.

Note: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

Audit Guide Amendments

The proposed supplemental 2014–15 Audit Guide includes the following revisions:

- *Report Components* item (3) changes the word “date” to “data” to correct an error, and item (6)(a) changes the code of findings concerning the Local Control Accountability Plan from 73000 to 62000 because such audit findings fall under the 60000 miscellaneous code for county follow-up.
- *Section D Independent Study* and *Section AA Nonclassroom-based Instruction/Independent Study* are both revised to reflect current law which allows independent study agreements to extend to the full school year (Educ. Code § 51747(c)(5)), and removes the requirement that LEAs sign and date pupil work products when assessing the time value of work (Educ. Code § 51747.5(c)). Revisions also add the term “independent study ratio” to add clarity to the audit step to reflect Education Code section 51745.6 and title 5, California Code of Regulations, Section 11704 which address the calculation of the ratio of independent study pupils to certificated employees.

- *Section F Instructional Time* removes McKittrick Elementary (15–63651) and Indian Springs Elementary (45–70037) as districts that participated in longer day but did not participate in longer year incentive funding; and removes Mountain House Elementary (01–61218) as a district that did not participate in longer day but did participate in longer year incentive funding.
- *Section S California Clean Energy Jobs Act* adds a link to the California Energy Commission’s Guidelines. Public Resources Code 26235(d)(2) exempts these guidelines from the rulemaking provisions of the Administrative Procedure Act. This section also adds a link to the Department of Education’s website, which provides the amount of the total award available for planning. These links provide information that will allow the auditor to determine whether a school district or county office of education complied with the California Clean Energy Job Act requirements of Public Resources Code Section 26235, to reflect the legislative direction regarding the expenditure of Proposition 39 funds.
- *Section W Unduplicated Local Control Funding Formula Pupil Counts* adds language for the auditor to ensure that data collection procedures complied with Education Code section 42238.01(a) for designated schools. Education Code section 42238.02(b)(3)(B) requires that the State Controller propose such instructions in the audit guide. Additionally, based on recommendations from the Audit Guide Committee (including the State Controller’s Office) modifications are made to step 4 to remove the reference to the California Longitudinal Pupil Achievement Data System (CalPADS) and add a reference to the Local Control Funding Formula. The LCFF is a new funding mechanism and it was noted that adjustments to CalPADS are required to arrive at the accurate enrollment count funded under LCFF. In order for the auditors to accurately audit these counts, as required by the Education Code, the LCFF must be used. Furthermore, as the new program has gone through its first round of audits, it was found that adjustments may have to be made for students enrolled at more than one school; thus, the words Enrollment Adjustments were added to W(4). A reference to the Department of Education website is also added, to ensure that auditors will use the correct data in their audits. Also, W(1)(a) adds “181” to the word “Free” and “182” to the word “Reduced” to provide specificity for the NSLP designations.

DISCLOSURES REGARDING THE PROPOSED ACTION

1. Mandate on local agencies and school districts: None.
2. Cost to any local agency or school district which must be reimbursed: None.
3. Cost or savings to any state agency: None.
4. Other non–discretionary cost or savings imposed upon local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Significant effect on housing costs: None.
7. Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
8. Results of the Economic Impact Assessment:
 - (a) Adoption of these regulations will not:
 - create or eliminate jobs within California;
 - create new businesses or eliminate existing businesses within California; or
 - affect the expansion of businesses currently doing business within California.
 - (b) Benefit of the proposed regulation to the health and welfare of California residents, worker safety, or the State’s environment and quality of life: As stated under the “Informative Digest/Policy Statement Overview” above, the proposed regulations will update and improve audit procedures of K–12 local education agencies, which would ultimately benefit the welfare of California residents by ensuring that local education agencies are in compliance with regulatory requirements.
9. Cost impact on a representative private person or business: EAAP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
10. Business report requirements: None.
11. Effect on small businesses: The proposed regulations will have no effect on small businesses because they do not materially alter the requirements for LEA audits.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), EAAP must determine that no reasonable alternative it has considered or that has otherwise

been identified and brought to the EAAP's 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 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.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action, requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, and other technical information upon which the rulemaking is based, and questions on the proposed administrative action may be directed to Timothy Morgan, Staff Attorney III, at (916) 445-7745 or by e-mail: tmorgan@eaap.ca.gov, or Mary C. Kelly, Executive Officer, at (916) 445-7745.

AVAILABILITY OF RULEMAKING FILE

The entire rulemaking file will be available for inspection and copying throughout the rulemaking process at EAAP's office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Economic Impact Assessment. A copy may be obtained by contacting Timothy Morgan at the above address. The bill analyses are also available online at <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the comment period, a hearing, if requested, and consideration of all timely and relevant comments received, EAAP may adopt the proposed regulations substantially as described in this notice. If EAAP makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before EAAP adopts the regulations as revised. Request for copies of any modified regulations should be sent to the attention of Timothy Morgan at the address stated above. EAAP will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion of the Final Statement of Reasons, a copy may be obtained by contacting Christine Pentoney at the above address, or from EAAP's website.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, Initial Statement of Reasons, text of the regulations in underline and strikeout, any changed or modified text, and the Final Statement of Reasons will be accessible through the EAAP website: www.eaap.ca.gov.

TITLE 8. DEPARTMENT OF INDUSTRIAL RELATIONS, DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 14300.2

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Industrial Relations, Division of Occupational Safety and Health ("DOSH," "Division," or "Cal/OSHA"), proposes to adopt the amendments to Title 8, Section 14300.2, of the California Code of Regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the subjects noted above, on the following date:

Date: May 11, 2015
Time: 10:00 a.m. to 5:00 p.m.
or conclusion of business
Place: 2424 Arden Way #495
Sacramento, CA 95825

PLEASE BE ADVISED: All visitors to this building are required to go through a security screening which includes passing through metal detectors, and the x-raying and inspection of all personal belongings.

The building is accessible to persons with mobility impairments. Other disability accommodations are available upon request.

Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division should contact the Disability Accommodation Coordinator or the state-wide Disability Accommodation Coordinator at 1-866-681-1459 (toll free) as soon as possible to request assistance. The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

In order to ensure unimpeded access for disabled individuals wishing to present comments and facilitate the accurate transcription of public comments, camera usage will be allowed in only one area of the hearing room. To provide everyone a chance to speak, public testimony may be limited to 10 minutes per speaker and should be specific to the proposed regulations. Testimony which would exceed 10 minutes may be submitted in writing.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation. If public comment concludes before the noon recess, no afternoon session will be held.

The Division requests, but does not require, that any persons who make oral comments at the hearings also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Division by 5:00 p.m. on May 11, 2015, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: Ssmith@dir.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation identifier "8 CCR Section 14300.2" in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission to (916) 483-0572; or
3. By mail or hand-delivery to Steve Smith, Principal Safety Engineer, Cal/OSHA, 2424 Arden Way #495, Sacramento, CA 95825.

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Division to provide the author with notice of any proposed changes to the regulation text on which additional comments may be solicited.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of the Proposed Regulations

Section 14300.2-Partial Exemption for Establishments in Certain Industries

29 C.F.R. Section 1904.2 requires a State Plan state to adopt rules that are "identical to or at least as effective as federal regulations." The proposed amendments to Section 14300.2 generally track the language and format of Section 1904.2.

Specifically,

- Reference to "a public and private employer" in 14300.2(a)(1) has been eliminated and replaced with "an employer." Section 14300.2 covers all employers and therefore it is not necessary to distinguish between private or public employers.
- Reference to "all of your establishments are classified in the retail, service, finance, insurance or real estate industries" has been replaced with "your business establishment is classified in a specific industry group." This is to recognize and reflect the identical language found in Section 1409.2(a).
- The entire 14300.2(b) entitled "Implementation" has been replaced with a new Implementation section, which mirrors the identical "Implementation" language in Section 1409.2(b) that is based on the new NAICS code.

Appendix A

- Reference to "public and private employers" has been eliminated and replaced with just "employers." Section 14300.2 covers all employers and therefore it is not necessary to distinguish between private or public employers.
- Reference to "Standard Industrial Classification (SIC)" code is replaced with "North American Industry Classification System (NAICS)" as this is the new partially-exempt industry classification standard.
- Reference to "a state agency operating under the authority of OSHA or the BLS", is changed to specifically reference the Division of Occupational Safety and Health (DOSH) since DOSH is the California state agency operating under the State Plan.

- The word “their” is inserted between “by reason” and “size or industry classification” so the relevant portion now reads: “by reason of their size or industry classification”.

Table I

Partially Exempt Industries List has been modified to mirror the new list of partially exempt industries under Section 1904.2, with the exception of NAICS Code 5121 Motion Picture and Video Industries. California will continue to require employers of establishments in Motion Picture and Video Industries to maintain such records.

Summary of Existing Laws/Policy Statement Overview

Problem Statement: The federal Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651 et seq. [“OSH Act”]) covers most private sector employers and their employees in all 50 states either directly through the U.S. Department of Labor’s Occupational Safety & Health Administration (“OSHA”) or through an OSHA–approved State Plan. A State Plan is an OSHA–approved job safety and health program operated by an individual state instead of federal OSHA. OSHA approves and monitors all State Plans and provides as much as fifty percent of the funding for each state program. State–run safety and health programs must set workplace safety and health standards that are at least as effective as the federal OSHA standards. If OSHA establishes a new standard, the state plans must adopt that standard within 6 months and employers must comply with the regulations and standards of only the State Plan if there is one that applies to them. See 29 Code of Federal Regulations, Section 1902. California is a State Plan state.

On September 11, 2014, OSHA published a final rule which updates the reporting and recordkeeping requirements for injuries and illness codified at 29 C.F.R. Section 1904.2 (See Federal Register Volume 79, No. 181, pages 56130–56188.) The final rule became effective on January 1, 2015. Under Section 1904.2, certain covered employers are required to prepare and maintain records of serious occupational injuries and illness using the OSHA prescribed form. However, there are two classes of employers that are partially exempt from routinely keeping such records: (1) Employers with ten or fewer employees at all times during the previous calendar year; and (2) Establishments in certain low–hazard industries. The new rule updates the list of low–hazard industries that are partially exempt from keeping OSHA records. The previous list of partially exempt industries was based on the Standard Industrial Classification (“SIC”) code system, but the updated list is based on the NAICS system. NAICS is the standard now used by most federal statistical agencies in classifying busi-

ness establishments for the purpose of collecting, analyzing and publishing statistical data related to the U.S. business economy. As a result of this change, some employers who were previously exempt from OSHA’s record keeping requirements are now required to keep records. The newly affected industries include car dealers, hardware stores, marketing research firms, facilities support services, blood and organ banks, beer, wine and liquor stores, services for the elderly and persons with disabilities, food service contractors, caterers, and bowling alleys, among others.

Section 14300.2 of California’s regulations previously adopted the same list of partially exempt industries promulgated under 29 C.F.R. Section 1904.2 that has now been updated based on a different classification system. Therefore, it has become necessary to amend Section 14300.2 and its Appendix to incorporate the same revisions made under Section 1904.2 in order to bring the state’s regulation into conformity with the federal regulation.

The Benefits of the Regulation to the Health and Welfare of California Residents, and Increases Worker Safety: This proposed amendments increase the benefits to the health and welfare of California residents and worker safety because according to OSHA, switching to the more modern NAICS codes from the seldom–used SIC code system will improve the quality of data collected by decreasing uncertainty in classification, saving time, reducing confusion, and lowering the opportunity for errors in reporting the industry an employer belongs to.

Evaluation as to Whether the Proposed Amendment Is Inconsistent or Incompatible With Existing State Regulations: The Division evaluated the proposed amendments and determined that, if adopted, they will not be inconsistent or incompatible with other existing state regulations. An Internet search of other state agencies’ regulations, determined that no other state regulations address the same subject matter.

AUTHORITY & REFERENCE CITATIONS

The Division is proposing to amend Section 14300.2, Title 8 of California Code of Regulations under the authority provided in Sections 50.7, 150 and 6410 of the Labor Code.

FORMS INCORPORATED BY REFERENCE

None.

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed amendment is compatible with 29 C.F.R. Section 1904.2, as amended effective January 1,

2015. Pursuant to Labor Code Section 6410, subdivision (b), the Division of Occupational Health and Safety, a division within the Department of Industrial Relations, is responsible for prescribing and providing the forms necessary for maintenance of records of occupational injuries and illnesses required by the OSH Act and its implementing regulations (Section 1900 et seq. of Title 29 of the C.F.R.) The OSH Act is administered by OSHA and covers all employers and their employees in all 50 states, with coverage provided either by the federal OSHA or by an OSHA-approved state job safety and health plan (State Plan). California is a State Plan state and is required to adopt occupational injury and illness recording and reporting requirements that are substantially identical to the requirements of 29 C.F.R. 1904.2. See 29 C.F.R. Sections 1902.3(k), 1904.37, 1954.2, and 1956.10.

OTHER STATUTORY REQUIREMENTS

N/A

LOCAL MANDATE

The Division has determined that the amended regulation would not impose a mandate on local agencies, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

FISCAL AND ECONOMIC COST ESTIMATES

A. Fiscal Impact on Local Government: None. The amendments do not alter the impacts of the existing regulation on local government.

B. Fiscal Impact on State Government: None. The amendments do not alter the impacts of the existing regulation on state government.

C. Fiscal Impacts on Federal Funding of State Programs: None.

D. Economic Cost Impacts on Private Persons or Businesses Directly Affected by the Amendments: There will be fiscal impact on employers with establishments which are no longer exempt from maintaining the yearly work injury and illness records and those which are now exempt from maintaining such records. OSHA recognizes that there is significant diversity among firms with respect to the personnel charged with OSHA recordkeeping responsibilities. Smaller firms may have a bookkeeper perform this function, while larger firms will likely use an occupational health and safety specialist. OSHA has estimated average annualized costs of \$82 per year for employers in industries who will be required to keep records every year.

In connection with amending Section 29 C.F.R. Section 1904.2 to use the NAICS standard, OSHA estimated that, nationwide, 220,000 establishments employing 5.5 million employees will be newly required to maintain records and 160,000 establishments employing 4.1 million employees will now be exempt. OSHA also estimated that initial training of record keepers is expected to require one hour per establishment and will apply only to current partially-exempt establishments that would be newly required to keep records. OSHA's estimates are designed to represent an average across large and small firms and establishments, taking into account both situations where more extensive initial training is provided as well as situations where little or no initial training is done. OSHA also notes that injury and illness recordkeeping development and training can account for much more than just keeping records of injuries and illnesses under 29 CFR Part 1904.2; in other words, these types of administrative functions address not just other OSHA requirements but also requirements for other agencies, such as the Bureau of Labor Statistics and workers' compensation insurers.

There will also be per-establishment costs in completing, posting, and certifying the required form annually. OSHA estimated that 0.47 hours per establishment will be needed to complete and post the required form, and 0.5 hours will be needed to certify the log entries, for a total of 0.97 hours per establishment. This estimate applies on a per-establishment basis to costs for current partially-exempt establishments that would be newly required to keep records and to cost savings for establishments that would no longer be required to keep records. Additionally, there are also costs for each injury and illness recorded. These costs include the costs for completing the required OSHA form, entering each injury and illness on to the required form, and responding to requests for copies of the OSHA form. OSHA estimated that 0.38 hours per recordable injury or illness will be expended to comply with these requirements. This estimate applies to costs for current partially exempt establishments that would be newly required to keep records and to cost savings for establishments that would no longer be required to keep records.

Combining the data of unit time requirements, hourly wages, numbers of establishments, and injury and illness totals, DOSH estimated the expected annualized cost to those employers who will be required to maintain records to be approximately \$17.9 million per year, with the most expensive element being the completion, certification, and posting of the OSHA Form 300A (California equivalent is Cal/OSHA Form 300) of \$11.9 million per year. Combining the data of unit time requirements, hourly wages, number of establishments, and injury and illness totals, OSHA estimated the cost savings for employers who would no longer need to

routinely maintain records to be approximately 11.5 million per year. Combining estimated costs and estimated savings, the net cost of the changes in the partial exemption part of the Section 29 C.F.R. 1904.2 is \$6.4 million per year.

According to the Bureau of Labor Statistics, California has 15% of the business establishments in the United States. Applying that percentage to OSHA's determinations, the additional California employers who will be required to maintain such records would have annualized costs totaling approximately \$2.6 million. For those employers who will no longer be required to maintain such records, the annualized cost savings would be approximately \$1.7 million. Thus the net overall cost of the changes in the partial exemption part of Section 14300.2 is approximately \$900,000.00.

E. Mandate on Local Agencies or School Districts: None.

F. Other Non-Discretionary Cost or Savings Imposed Upon Local Agencies: None.

G. Effect on Small Businesses: The proposed amended regulation will affect small businesses. There will be small business employers with establishments which will no longer be exempted from maintaining the yearly work injury and illness records and those which will be exempted from maintaining such records. (Note, however, that the regulation will continue to exempt employers with ten or fewer employees at all times during the previous calendar year.)

HOUSING COSTS

The Division has determined that the amended regulation will have no impact on housing costs.

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

The Division has made a determination that the amended regulation would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, as employers in other states will also have to comply with 29 C.F.R. Section 1904.2 or their own corresponding State Plan requirement.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The Division analyzed whether and to what extent this proposal affects the following:

1. The creation or elimination of jobs within the State of California. The Division does not anticipate that any jobs in California will be eliminated due to the financial impact of the proposed regulatory action. The proposed regulation updates the partially exempt industries from maintaining work injury and illness records. It is anticipated that significant costs or expenses will not be incurred by businesses to comply with the proposed amendments that would result in either creation or elimination of jobs within California.

2. The creation of new businesses or the elimination of existing businesses within the State of California. The Division does not anticipate that any businesses in California will be created or eliminated due to the financial impact of the proposed regulatory action.

3. The expansion of businesses currently doing business within the State of California. The Division does not anticipate any businesses in California will be expanded due to the financial impact of the proposed regulatory action.

4. The benefits of the regulation to the health and welfare of California residents, and increases worker safety. This proposal increases the benefits to the health and welfare of California residents and worker safety because according to OSHA, switching to the more modern NAICS codes from the seldom-used SIC code system will improve the quality of data collected by decreasing uncertainty in classification, saving time, reducing confusion, and lowering the opportunity for errors in reporting the industry an employer belongs to.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

In connection with amending Section 29 C.F.R. Section 1904.2 to use the NAICS standard, OSHA estimated that nationwide 220,000 establishments employing 5.5 million employees will be newly required to maintain records and 160,000 establishments employing 4.1 million employees will now be exempt. OSHA also estimates that initial training of record keepers is expected to require one hour per establishment and will apply only to current partially-exempt establishments that would be newly required to keep records. OSHA's estimates are designed to represent an average across large and small firms and establishments, taking into account both situations where more extensive initial training is provided as well as situations where little or no initial training is done. OSHA also notes that injury and illness recordkeeping development and training can account for much more than just keeping records of injuries and illnesses under 29 CFR Part 1904; in other words, these types of administrative functions address not just other OSHA requirements but also requirements for other agencies, such as the Bureau of Labor

Statistics and workers' compensation insurers. OSHA estimated average annualized costs of \$82 per year for those employers in industries who will be required to keep records every year.

There will also be per-establishment costs in completing, posting, and certifying the required form annually. OSHA estimated that 0.47 hours per establishment will be needed to complete and post the required form, and 0.5 hours will be needed to certify the log entries, for a total of 0.97 hours per establishment. This estimate applies on a per-establishment basis to costs for current partially-exempt establishments that would be newly required to keep records, and to cost savings for establishments that would no longer be required to keep records. Additionally, there are also costs for each injury and illness recorded. These costs include the costs for completing the required OSHA form, entering each injury and illness on the required form, and responding to requests for copies of the OSHA form. OSHA estimated that 0.38 hours per recordable injury or illness will be expended to comply with these requirements. This estimate applies to costs for current partially exempt establishments that would be newly required to keep records and to cost savings for establishments that would no longer be required to keep records.

BUSINESS REPORT

None.

ALTERNATIVES STATEMENT

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

The Division invites interested persons to present reasonable alternatives to the proposed amended regulation at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Steve Smith at (916) 263-1943, Cal/OSHA, 2424 Arden Way #495, Sacramento, CA 95825. The designated back-up contact person is Robert Nakamura at (510)

286-7005, Cal/OSHA, 1515 Clay St., Suite 1901, Oakland, CA 94612. In any inquiries or written comments, please identify the action by referencing to Amendment to 8 C.C.R. Section 14300.2.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE:

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of publication of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, the proposed text of the regulations, the Economic and Fiscal Impact Statement (Form 399), and a copy of the document entitled "Federal Register, Vol. 79, No. 181, pages 56130-56188 (Federal Register). As public comments are received during the rulemaking process, they will be added to the rulemaking file.

In addition, this Notice, Initial Statement of Reasons, proposed text of regulations, and Federal Register may be accessed and downloaded from the Division's website at <http://www.dir.ca.gov/Rulemaking/DIRProposed.html>. To access them, scroll down the list of rulemaking proceedings to find the current rulemaking.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at Cal/OSHA, 2424 Arden Way #495, Sacramento, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday (except for state holidays). Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

Upon closure of time for receipt of public comments, the Division may adopt the proposed rulemaking substantially as described above or may modify it if such modifications are sufficiently related to the original text. With the exception of technical, grammatical or other non-substantive changes, if the Division makes any changes to the proposed regulations as a result of the public hearing and public comment received, the full text of such modifications to the proposed rulemaking, with changes clearly indicated, will be made avail-

able for public comment 15 days prior to their adoption. Notice of the modified text will be mailed to those persons who submit written or oral comments related to the proposed rulemaking or who request notification of any changes to the proposed rulemaking.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website at <http://www.dir.ca.gov/Rulemaking/DIRProposed.html>. If adopted, the proposed amendment to the regulation will appear in Title 8, California Code of Regulations, Section 14300.2.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code § 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by **MAY 11, 2015, at 5:00 p.m.**

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-6932 or by letter to the:

Commission on POST
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes.

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code § 13503 — POST powers and § 13506 — POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code § 13503 (e) — POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers. This proposed action will update the training specifications to include revisions to grammar, punctuation, definitions, and minimum training standards.

The benefits anticipated by the proposed amendments to the regulations will be to update the training specifications for Peace Officer Basic Courses which will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

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

All changes to curriculum begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and subject matter experts who provide recommended changes to existing curriculum. The completed work of all committees is presented to the POST Commission for final review and adoption. Upon adoption of the proposed amendments, academies and course presenters will be required to teach and test the updated curriculum. The proposed effective date is August 1, 2015.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES

This proposal does not impose costs on any local agency or school district for which reimbursement

would be required pursuant to Part 7 (commencing with § 17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the State.

COSTS OR SAVINGS TO STATE AGENCIES

POST anticipates no additional costs or savings to State agencies.

BUSINESS IMPACT/SMALL BUSINESSES

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code §11342.610, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in the State of California.

RESULTS OF ECONOMIC IMPACT ASSESSMENT PER GOVERNMENT CODE SECTION 11346.3

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The proposed amendments of regulations will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Commission is not aware of any cost impacts that a representative private person or business would nec-

essarily incur in reasonable compliance with the proposed action.

EFFECT ON HOUSING COSTS

None.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the agency, or otherwise identified and brought to the agency's attention, would 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 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.

CONTACT PERSON

Please direct inquiries or written comments about the proposed regulatory action to the following:

Cheryl Smith
 Commission on POST
 860 Stillwater Road, Suite 100
 West Sacramento, CA 95605-1630
 (916) 227-0544
Cheryl.Smith@post.ca.gov
 FAX (916) 227-6932

or

Patti Kaida
 Commission on POST
 860 Stillwater Road, Suite 100
 West Sacramento, CA 95605-1630
 (916) 227-4847
Patti.Kaida@post.ca.gov
 FAX (916) 227-5271

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at: 860 Stillwater Road, Suite 100, West Sacramento, CA 95605. These documents are also located on the POST Website at: <http://www.post.ca.gov/regulatory-actions.aspx>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person named above.

**TITLE 16. PHYSICAL THERAPY
BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the action proposed in writing. 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 Physical Therapy Board of California at its office not later than **5:00 p.m. on May 11, 2015.**

Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Loma Linda University
11072 Anderson Street
Loma Linda, California 92350
on
Wednesday, May 13, 2015
9:15 a.m.**

The Physical Therapy Board of California 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 Section 2615 of the Business and Professions Code, and to implement, interpret or make specific Section 2653 of said Code, the Physical Therapy Board of California is considering

changes to Division 13.2 of Title 16 of the California Code of Regulations.

INFORMATIVE DIGEST

Business and Professions Code Section (BPC §) 2615, authorizes the Board to adopt, amend, or repeal, such rules and regulations as may be reasonably necessary to enable the Board to carry out the provisions of the Physical Therapy Practice Act.

BPC § 2653 authorizes the Board to establish in regulation credential evaluation criteria and to set a passing score on the Test of English as a Foreign Language (TOEFL).

SB 198 amended BPC §2653 (b) of the Physical Therapy Practice Act (Act) when it was chaptered into law. The amendment requires an applicant for a license as a physical therapist who has graduated from a physical therapist education program, that is not approved by the Board and is not located in the United States, to demonstrate proficiency in English by achieving a score specified by the Board on the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Services (ETS) or such other examination as may be specified by the Board by regulation.

Since TOEFL was required by statute prior to the promulgation of regulation, the Board deferred to the examination score minimums set by the United States Citizenship and Immigration Services (USCIS) for immigrants seeking to come into the United States to practice physical therapy; though, the Board finds the score minimums acceptable by USCIS for immigration purposes outdated and insufficient for consumer protection. Additionally, federal regulations allow for combining of scores of the multiple part exam from multiple sittings which the Board also finds insufficient for consumer protection. Although, consistent with federal regulation the Board proposes to define in regulation those considered to be exempt from the TOEFL requirement for having studied in countries where English is not a foreign language. Finally, the CES reporting scores to the Board are doing so voluntarily since it is not mandated in regulation.

Anticipated Benefits of Proposed Regulations

The Board considered specific benefits anticipated by the proposed amendment of the section described, including, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things. The Board considered the assurance that a physical therapy practitioner is proficient in English and is capable of

communicating effectively with not only the patient, but other health care professionals, insurance companies, etc. is a benefit to the consumer and meets the Board's consumer protection mandate.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Physical Therapy Board of California conducted a search of any similar regulations on this topic and has concluded these regulations are 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.

The Board does not anticipate any impact on federal funding.

This proposal does not impact any government-owned business.

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 the proposed regulatory action would have no significant state-wide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Physical Therapy Board of California has determined 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.

Effect on Small Business:

The Physical Therapy Board of California has determined the proposed regulations could have an effect on small business if the small business physical therapist owner elected to pay the renewal fees of its employees.

Benefits of Regulation:

The Physical Therapy Board of California has determined these regulations will benefit the health and welfare of California residents by ensuring physical therapists educated in a program not approved by the Board nor located in the United States is able to listen, speak, write and read the English language proficiently.

CONSIDERATION OF ALTERNATIVES

The Physical Therapy Board of California 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 for 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 Physical Therapy Board of California 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 Physical Therapy Board of California at 2005 Evergreen Street, Suite 1350, Sacramento, California 95815 or on the website at http://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

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

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

is available for public inspection by contacting the person named below.

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

CONTACT PERSON

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

Brooke Arneson
2005 Evergreen Street, Suite 1350
Sacramento, California 95815
Telephone: (916) 561-8260
Fax: (916) 263-2560
Email
Address: Brooke.Arneseon@dca.ca.gov

The backup contact person is:

Liz Constancio
2005 Evergreen Street, Suite 1350
Sacramento, California 95815
Telephone: (916) 561-8274
Fax: (916) 263-2560
Email
Address: Liz.Constancio@dca.ca.gov

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

TITLE 20. CALIFORNIA ENERGY COMMISSION

MODIFICATION OF REGULATIONS ESTABLISHING ENFORCEMENT PROCEDURES FOR THE RENEWABLES PORTFOLIO STANDARD FOR LOCAL PUBLICLY OWNED UTILITIES

California Energy Commission
DOCKET NO. 14-RPS-01

The California Energy Commission proposes to modify existing regulations establishing enforcement rules and procedures for the Renewables Portfolio Standard (RPS) for local publicly owned electric utilities (POUs) under Article 16 (commencing with section 399.11) of Chapter 2.3 of Part 1 of the Public Utilities Code. The proposed action is taken under the authority of sections 25213 and 25218(e) of the Public Resources Code and section 399.30 of the Public Utilities Code. The proposed modifications to the regulations will im-

plement, interpret, and make specific several provisions of Public Utilities Code sections 399.13, 399.15, 399.16, 399.30, 9507, and 9508.

STAFF WORKSHOP/HEARING

Energy Commission staff will hold a workshop/hearing on the following date and time to receive public comments on the proposed modifications to the regulations:

April 9, 2015
Beginning 9:30 a.m.
California Energy Commission
1516 Ninth Street
First Floor, Art Rosenfeld Hearing Room
Sacramento, California
(Wheelchair accessible)

At this workshop/hearing, any person may present oral and written comments on the proposed modifications to the regulations. Persons may submit written comments as specified below. If possible, please submit written comments to be considered at the staff workshop/hearing by April 2, 2015. The Energy Commission appreciates receiving written comments at the earliest possible date. Energy Commission commissioners may attend this workshop/hearing.

Audio for the April 9, 2015, staff workshop/hearing will be broadcast over the internet via WebEx. To join the meeting online, go to <https://energy.webex.com/>, enter the meeting number **922 381 183**, then enter your name and email address. If a password is required, enter the meeting password: meeting@930. Click "Join". Follow the instructions that appear on your screen to join the teleconference for the workshop/hearing.

To join the audio conference only, call the number below and enter the access code **922 381 183**:

Call-in toll-free number (US/Canada): 1-866-469-3239

Call-in toll number (US/Canada): 1-650-429-3300

PUBLIC HEARING

The Energy Commission will hold a public hearing for consideration and possible adoption of the 45-day language Express Terms on the following date and time:

June 10, 2015
Beginning 10 a.m.
California Energy Commission
1516 Ninth Street
First Floor, Art Rosenfeld Hearing Room
Sacramento, California
(Wheelchair accessible)

At this adoption hearing, any person may present oral or written comments on the proposed modifications to the regulations. Persons may submit written comments as specified below.

Audio for the June 10, 2015, adoption hearing will be available by telephone and will be broadcast over the internet via WebEx. Further information regarding telephone and WebEx participation for the adoption hearing will be included in the agenda for that hearing, which will be published on or about May 29, 2015.

If you have a disability and require assistance to participate in either the staff workshop/hearing or the Energy Commission adoption hearing, please contact Lou Quiroz at (916) 654-5146 at least five days in advance of the workshop/hearing or the adoption hearing.

ORAL AND WRITTEN COMMENTS AND COMMENT PERIOD

The public comment period for the proposed modifications to the regulations as written in the 45-day language Express Terms is March 27, 2015, through and including May 11, 2015. Any interested person may submit oral and written comments on the proposed modifications to the regulations. To provide ample opportunity to evaluate written comments, it is requested that written comments be submitted by 5:00 p.m. on May 11, 2015. However, both oral and written comments will be accepted at the June 10, 2015, adoption hearing. The Energy Commission appreciates receiving written comments at the earliest possible date. E-mail is preferred.

To e-mail comments on behalf of an organization, send a scanned copy of the comments on the organization's letterhead, signed by an authorized representative.

E-mail comments in either Microsoft Word format (.doc) or Adobe Acrobat portable document format (.pdf) to: DOCKET@energy.ca.gov.

All written comments sent by e-mail must indicate **Docket No. 14-RPS-01** in the subject line. Written comments may also be mailed to:

California Energy Commission
Docket No. 14-RPS-01
 Docket Unit
 1516 Ninth Street, MS-4
 Sacramento, CA 95814-5504

PUBLIC ADVISER

The Energy Commission's Public Adviser's Office is available to assist any person who wishes to participate in this proceeding. For assistance from the Public

Adviser's Office, please call (916) 654-4489, or toll-free in California at (800) 822-6228, or e-mail publicadviser@energy.ca.gov.

AUTHORITY AND REFERENCE (Gov. Code, § 11346.5, subd. (a)(2))

Public Resources Code sections 25213 and 25218(e) and Public Utilities Code section 399.30 authorize the Energy Commission to adopt modifications to the regulations.

The proposed modifications to the regulations would implement, interpret, and make specific several provisions of Public Utilities Code sections 399.13, 399.15, 399.16, 399.30, 9507, and 9508.

The proposed modifications to the regulations will be codified in the California Code of Regulations, Title 20, Division 2, Chapter 13, sections 3201, 3202, 3203, 3204, 3206, and 3207, and in Title 20, Division 2, Chapter 2, Article 4, section 1240.

INFORMATIVE DIGEST (Gov. Code, § 11346.5, subd. (a)(3))

A. Summary of Existing Laws and Regulations

The Energy Commission's enforcement regulations for the RPS for POU's were adopted on June 12, 2013, pursuant to Public Utilities Code section 399.30, as enacted by Senate Bill X1-2 (Stats. 2011, 1st Ex. Sess., ch. 1) and subsequently revised by Assembly Bill 2227 (Stats. 2012, ch. 606, sec. 8). Public Utilities Code section 399.30(1) directs the Energy Commission to adopt regulations specifying procedures for the enforcement of the RPS for POU's and requires that the regulations include a public process under which the Energy Commission may issue a notice of violation and correction against a POU for failure to comply with the RPS, and for referral of violations to the California Air Resources Board (ARB) for penalties.

The regulations were approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on August 28, 2013, and took effect on October 1, 2013. The regulations establish the rules and procedures the Energy Commission will use to assess a POU's procurement actions and determine whether those actions meet the RPS procurement requirements in the law. The regulations require POU's to submit various information and reports to the Energy Commission, so the Energy Commission may verify and determine compliance with the RPS, and, if appropriate, issue a notice of violation and correction for a POU's failure to comply and refer the violation to the California Air Resources Board for potential penalties.

Public Utilities Code section 399.30 was subsequently amended by Senate Bill 591 (SB 591, Stats. 2013, ch.

520)¹ after the regulations were adopted by the Energy Commission. SB 591 modifies the RPS requirements for a qualifying POU. Specifically, SB 591 adds a new subdivision (k) to Public Utilities Code section 399.30, which establishes a limited procurement exemption for a “local publicly owned electric utility that receives greater than 50 percent of its annual retail sales from its own hydroelectric generation that is not an eligible renewable energy resource.” If this criteria is satisfied the POU may limit its RPS procurement obligations for a given compliance period to the lesser of 1) the portion of the POU’s retail sales not met by its own hydroelectric generation, 2) the procurement obligations applicable to other POUs under PUC section 399.30(c), or 3) the amount of procurement capped by the POU’s cost limitations adopted in accordance with Public Utilities Code section 399.30.

On March 12, 2014, the Energy Commission adopted an Order Instituting Rulemaking to initiate a rulemaking proceeding to consider modifications to its regulations to implement SB 591 and, to the extent necessary, clarify existing provisions in the regulations. In addition to the modifications needed to implement SB 591, the Energy Commission has identified several areas in the regulations that need clarification. These areas of clarification are related to the following: i) the definitions of “bundled,” “resale,” and the “Western Electricity Coordinating Council,” ii) the requirements for qualifying electricity products procured under agreement executed prior to June 1, 2010, iii) the requirements for electricity products qualifying as dynamic transfers, iv) the portfolio content category classification of electricity products from POU-owned resources, v) the excess procurement rules related to amended contracts, vi) the application of optional compliance measures, vii) select reporting requirements, and viii) procedural provisions for complaints of non-compliance.

The need for these clarifications is based in part on the inquiries received from stakeholders since the regulations were adopted in 2013 and from the comments received in response to a pre-rulemaking public workshop held on July 11, 2014.

B. Objective

The overall problems the Energy Commission is attempting to address with the proposed modifications are unclear requirements under its existing regulations and the implementation of SB 591.

Since the regulations became effective October 1, 2013, the Energy Commission has received repeated

questions on several topics, including the portfolio content category classification for distributed generation systems, the definition of retail sales, the definition of resale, excess procurement rules when a contract is extended, and dynamic transfer agreements. The Energy Commission held a workshop in July 2014 to discuss these topics and solicit public comments. After reviewing the comments received, the Energy Commission determined that clarification was needed on select provisions in the regulations to avoid confusion and improve the application of the regulations.

In addition, SB 591 went into effect after the regulations became effective in October 2013, so modifications to the regulations are needed to implement the new Public Utilities Code section 399.30(k) and revise references to subsequent Public Utilities Code sections that were renumbered by SB 591.

C. Anticipated Benefits

The benefits anticipated from this regulatory action are improved direction and guidance on how the Energy Commission will interpret, apply and enforce the RPS law, so the POUs can plan accordingly in procuring renewable electricity to meet their RPS requirements. Specifically, POUs will now better understand the requirements for bundled and resale transactions, dynamic transfers, excess procurement calculations, portfolio content category classification for POU-owned resources, applying optional compliance measures, and procedures related to complaints of non-compliance. In addition, a POU that meets the criteria of Public Utilities Code section 399.30(k) will have direction on how to demonstrate that it meets the criteria in the statute as well as how to demonstrate that it meets its RPS requirements.

Clarifying the requirements in the regulations will also result in a more uniform and consistent application of the RPS law, which in turn will help promote the underlying goals of the RPS, including reducing air pollution associated with fossil fuel-based electrical generation and helping the state meet its climate change goals by reducing greenhouse gas emissions associated with electrical generation.

D. Overview of RPS Implementation

The Energy Commission and the California Public Utilities Commission (CPUC) work collaboratively to implement the RPS; however, the Energy Commission and the CPUC maintain separate roles in administering their respective responsibilities under the law. Under the RPS, the Energy Commission is charged with certifying eligible renewable energy resources that may be used to satisfy the RPS procurement requirements of retail sellers and POUs and with developing an accounting system to verify the RPS compliance of retail sellers and POUs. (Pub. Util. Code, §399.25.) The CPUC is re-

¹ SB 591 amended Public Utilities Code section 399.30, subdivision (k), and renumbered subsequent subdivision, so that the former Public Utilities Code section 399.30, subdivisions (k)–(n) became subdivisions (l)–(o), respectively.

sponsible for establishing the RPS procurement requirements for retail sellers, determining compliance for retail sellers, and imposing penalties for non-compliance of retail sellers. (Pub. Util. Code, §§ 399.13–399.17.)

The Energy Commission implements its responsibilities for certifying eligible renewable energy resources and verifying RPS compliance through guidelines that were originally adopted in April 2004, with subsequent revisions adopted in May 2004, August 2004, May 2005, April 2006, March 2007, December 2007, December 2010, May 2012, August 2012, April 2013, April 2014, October 2014, and November 2014. The adoption of these guidelines is expressly exempt from the formal rulemaking requirements of the Administrative Procedure Act pursuant to Public Resources Code section 25747(a). These guidelines are set forth in the Energy Commission’s *Renewables Portfolio Standard Eligibility Guidebook*, which explains the requirements and process for certifying eligible renewable energy resources for California’s RPS. The *Renewables Portfolio Standard Eligibility Guidebook* also describes how the Energy Commission tracks and verifies RPS-eligible generation for the RPS.

The Energy Commission recognizes the need to revise the guidebook periodically to reflect changes in the law and market and regulatory developments, and to incorporate the lessons learned from experience implementing the RPS. The guidebook works in tandem with the Energy Commission’s enforcement regulations for the RPS for POU’s.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS
(Gov. Code, § 11346.5, subd. (a)(3)(D))

During the process of developing the proposed modifications to the regulations, the Energy Commission conducted a search of similar regulations on topic and concluded that the proposed modifications are neither inconsistent, nor incompatible with existing state regulations.

The proposed modifications to the regulations are consistent with *Renewables Portfolio Standard Eligibility Guidebook*. In addition, the proposed modifications to the regulations are consistent with the RPS rules and requirements established by the CPUC for retail sellers.

In developing the proposed modifications to the regulations, the Energy Commission considered the effects of the proposed modifications on the *Renewables Portfolio Standard Eligibility Guidebook* to ensure the two were consistent and could be used in tandem to implement the RPS. In addition, the Energy Commission

worked with the CPUC to ensure the proposed modifications to the regulations were consistent with the rules developed by the CPUC for the retail sellers.

DOCUMENTS INCORPORATED BY REFERENCE
(1 California Code of Regulations, § 20, subd. (c)(3))

The proposed modifications to the regulations do not incorporate any documents by reference.

FEDERAL LAW
(Gov. Code, §§ 11346.2, subd. (c), and 11346.9)

The Energy Commission is aware of no comparable federal regulations or statutes establishing procedures for the enforcement of California’s RPS on POU’s. Furthermore, no federally mandated regulation or amendment is being proposed.

LOCAL MANDATE DETERMINATION
(Gov. Code, § 11346.5, subd. (a)(5))

If adopted, the proposed modifications to the regulations would impose a mandate on local agencies. POU’s are local agencies. Pursuant to Government Code section 17556(d), the costs would not be required to be reimbursed because the POU’s, as local agencies, have the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. Public Utilities Code sections 10001, et seq., 11501, et seq., and 15501 et seq., and Water Code section 20500, et seq. provide revenue sources for the affected POU’s to recoup any costs incurred through compliance with the proposed modifications to the regulations.

FISCAL AND ECONOMIC IMPACT ESTIMATES
(Gov. Code, § 11346.5, subd. (a)(6))

A. Costs or Savings for State Agencies

Implementation of the proposed modifications to the regulations would result in minor costs to one state agency — the Energy Commission. It is estimated that the proposed modifications to the regulations will result in approximately 60 hours of a single staff person’s time to evaluate and process the additional information reported by POU’s under the proposed modifications. The cost associated with evaluating and processing this additional information is [(60 hours) X (\$26.66/hour)] or \$1,600, and is based on the responsibilities, duties and pay of an Energy Analyst in the Energy Commission’s Renewable Energy Division.

These additional costs are negligible in comparison to the Energy Commission’s ongoing costs of \$376,000

annually to implement the existing regulations, and can be absorbed by existing Energy Commission staff and resources.

B. Costs or Savings for Local Agencies or School Districts Requiring Reimbursement Pursuant to Government Code Section 17500, et seq.

Implementation of the proposed modifications to the regulations would result in minor costs to POU's, which are local agencies. It is estimated that each POU will spend no more than 4 hours of a single staff person's time to report on the POU's own energy consumption, and that the additional cost to report this information is estimated to be no more than \$106.64 annually for a median-sized POU based on the duties, responsibilities and salary of an Energy Commission Energy Analyst. In addition, it is estimated that certain POU's (those meeting the criteria of Public Utilities Code section 399.30(h) or (k)) will spend no more than 2 hours of a single staff person's time to report the additional information required to verify eligibility under section 399.30(h) or (k), and that the additional cost to report this information is estimated to be no more than \$53.32 once per compliance period based on the duties, responsibilities and salary of an Energy Commission Energy Analyst. Also, POU's may incur increased costs connected with the tracking and reporting of electricity products procured from eligible renewable energy resources under dynamic transfer agreements if they procure such electricity products. These costs will be \$2,544 annually for tracking fees plus a related report fee of \$25 annually and would be incurred if a POU procures electricity products under a dynamic transfer agreement. These additional tracking and report fees would only result in a cost increase for a POU if the POU is not currently incurring these fees for the tracking and reporting of electricity that is not dynamically scheduled into a California balancing authority.

Implementation of the proposed modifications to the regulations would not result in any savings to local agencies. Nor would the proposed modifications result in any costs or savings to school districts.

C. Other Non-Discretionary Costs or Savings on Local Agencies

Implementation of the proposed regulations would not result in other non-discretionary costs or savings on local agencies.

D. Costs or Savings in Federal Funding to the State

Implementation of the proposed regulations would not result in any costs or savings in federal funding.

INITIAL DETERMINATION REGARDING SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

(Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), and 11346.5, subd. (a)(8))

The Energy Commission finds that the proposed modifications to the regulations will not have a significant statewide adverse economic, fiscal, or environmental impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination also applies to small businesses, which, as defined in Government Code section 11342.610, are limited to business activities that are "independently owned and operated" and "not dominant in its field of operation." (Gov. Code, § 11342.610, subd. (a)(1) and (2).)

The Energy Commission is unaware of any legitimate cause and effect relationship between the proposed modifications to the regulations and a significant statewide adverse economic impact directly affecting businesses. No business, including a small business, is legally required to comply with or enforce the proposed modifications to the regulations. Nor will any business derive a direct benefit or detriment from the implementation of the proposed modifications to the regulations. The proposed modifications to the regulations would apply to a POU, which is a local agency and not an independently owned and operated business.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

(Gov. Code, § 11346.5, subd. (a)(10))

The Energy Commission has made the initial determination relating to the economic and fiscal impacts of the proposed modifications to the regulations by checking box A-1(h) on the Form 399 *Economic and Fiscal Impact Statement*.

The proposed modifications to the regulations are minor and will require only a minimal amount of additional information and reporting-related work above what is already required under the existing regulations. As a result, the proposed modifications to the regulations would not affect the creation or elimination of jobs with California, the creation of new businesses or elimination of existing businesses in California, or the expansion of existing businesses currently doing business in

California. Nor would the proposed modifications to the regulations directly impact the health and welfare of California residents, worker safety, or the state's environment.

However, the proposed modifications to the regulations may have an indirect effect on the state's environment if the proposed modifications result in a more consistent application of the state's RPS with respect to POU's. A more consistent application and enforcement of the state's RPS will help promote the underlying goals of the RPS, which include reducing air pollution associated with fossil fuel-based electrical generation and helping meet the state's climate change goals by reducing greenhouse gas emissions associated with electrical generation.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

(Gov. Code, § 11346.5, subd. (a)(9))

The Energy Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed modifications to the regulations. The proposed modifications to the regulations would not directly apply to private individuals or businesses. The proposed modifications to the regulations would apply only to POU's, which are local agencies and not independently owned and operated businesses.

BUSINESS REPORTS

(Gov. Code, §§ 11346.5, subd. (a)(11), and 11346.3, subd. (d))

The proposed modifications to the regulations would not require businesses, including small businesses, to submit any new reports.

SMALL BUSINESS IMPACTS

(1 California Code of Regulations, § 4)

The Energy Commission has determined that the proposed modifications to the regulations will not negatively impact small businesses. As discussed above, the proposed modifications to the regulations apply only to POU's, which are local agencies and not independently owned and operated small businesses. No small business is legally required to comply with or enforce the proposed modifications to the regulations. Nor will any small business derive a direct benefit or detriment from the implementation of the proposed modifications to the regulations.

EFFECT ON HOUSING COSTS
(Gov. Code, § 11346.5, subd. (a)(12))

The Energy Commission has determined, based on the nature of the proposed modifications to the regulations, that the proposed modifications will have no significant effect on housing costs.

ALTERNATIVES STATEMENT
(Gov. Code, § 11346.5, subd. (a)(13))

In accordance with Government Code section 11346.5, subdivision (a)(13), the Energy Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Energy Commission would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Energy Commission is not aware of any alternatives that would be as effective as and less burdensome than the proposed modifications to the regulations. The proposed modifications to the regulations are not expected to have any effect on private persons.

The Energy Commission 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.

DESIGNATED CONTACT PERSONS
(Gov. Code, § 11346.5, subd. (a)(14))

For general information about the proceeding, contact:

Angela Gould
Renewable Energy Office
California Energy Commission
1516 Ninth Street, MS-45
Sacramento, California 95814-5512
(916) 654-4881
angela.gould@energy.ca.gov

The designated back up for general information about the proceeding is:

Emily Chisholm
Renewable Energy Office
California Energy Commission
1516 Ninth Street, MS-45
Sacramento, California 95814-5512
(916) 654-4006
emily.chisholm@energy.ca.gov

For legal questions about this proceeding, contact:

Gabriel Herrera
Staff Counsel
California Energy Commission
1516 Ninth Street, MS-14
Sacramento, California 95814-5512
(916) 654-5141
gabe.herrera@energy.ca.gov

For documents related to the proceeding, go to:
<http://www.energy.ca.gov/portfolio/documents/index.html>, or contact:

Docket Office
Docket No. 14-RPS-01
California Energy Commission
1516 Ninth Street, MS-4
Sacramento, California 95814-5504
(916) 654-5076
docket@energy.ca.gov

MEDIA INQUIRIES

Media inquiries should be sent to the Media and Public Communications Office, at (916) 654-4989 or mediaoffice@energy.ca.gov.

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, EXPRESS TERMS, ECONOMIC AND FISCAL IMPACT STATEMENTS, AND INFORMATION UPON WHICH THE PROPOSED RULEMAKING IS BASED (Gov. Code, § 11346.5, subd. (a)(16))

The Energy Commission has prepared an Initial Statement of Reasons for the proposed modifications to the regulations, Express Terms for the proposed modifications of the regulations, and Supporting Materials for the Economic and Fiscal Impact Statement and Assessment for the proposed modifications of the regulations. To obtain a copy of the Initial Statement of Reasons, Express Terms, Supporting Materials for the Economic and Fiscal Impact Statement and Assessment, or other information upon which the proposed modifications to the regulations are based, please visit the Energy Commission's website at: http://www.energy.ca.gov/portfolio/pou_rulemaking/2014-RPS-01/ or contact the Energy Commission's Docket Office or designated contact persons at the addresses noted above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT (15-DAY LANGUAGE) (Gov. Code, § 11346.5, subd. (a)(18))

The Energy Commission may adopt the proposed modifications to the regulations as described in this notice and shown in the Express Terms. The proposed modifications to the regulations could be substantively changed as a result of public comment, staff recommendation, or recommendations from Energy Commission commissioners. In addition, changes to the proposed modifications not indicated in the Express Terms could be considered by the Energy Commission if the changes improve the clarity or effectiveness of the proposed modifications to the regulations. If the Energy Commission makes changes that are substantial and sufficiently related to the originally proposed Express Terms it will make the changed text of the regulations available for public review at least 15 days before it adopts the changed text of the regulations.

Notice of the changed text of the regulations will be provided to all persons who submit comments at the public hearing and provided contact information, who submit written comments to the Energy Commission's docket for this proceeding, and who specifically request notification of any such changes to the text of the regulations. In addition, notice of the changed text of the regulations will be placed on the Energy Commission's website. The Energy Commission will accept comments on the changed text of the regulations for the period specified in the notice and will consider adoption of the changed text at a public hearing as specified in the notice.

FINAL STATEMENT OF REASONS (Gov. Code, § 11346.5, subd. (a)(19))

The Energy Commission will prepare a final statement of reasons to support the final version of the proposed modifications to the regulations. The final statement of reasons will also contain summaries and responses to relevant public comments received by the Energy Commission during the comment period.

The final statement of reasons will be posted on the Energy Commission's website at: http://www.energy.ca.gov/portfolio/pou_rulemaking/2014-RPS-01/.

INTERNET ACCESS (Gov. Code, §§ 11346.4, subd. (a)(6), and 11346.5, subd. (a)(20))

The Energy Commission maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the Energy Commission for this rulemak-

ing, including this Notice of Proposed Action, the Express Terms, the Initial Statement of Reasons, and the Supporting Materials for the Economic and Fiscal Impact Statement and Assessment, as well as other documents upon which the proposed modifications to the regulations are based, are available on the Energy Commission’s website at: http://www.energy.ca.gov/portfolio/pou_rulemaking/2014-RPS-01/.

Served on the following list servers: Renewable

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

**PROPOSED RESEARCH ON FULLY PROTECTED SPECIES
Research on Golden Eagle**

The Department of Fish and Wildlife (Department) received a proposal on March 5, 2015 from Mr. Jeff Kidd, on behalf of Kidd Biological Inc., Murrieta, California, requesting authorization to take golden eagle (*Aquila chrysaetos*) (eagle), for scientific research purposes consistent with conservation and recovery of the species. The eagle is a Fully Protected bird.

Mr. Kidd proposes to study the eagle in Orange, Riverside, and San Diego Counties, in accordance with methods approved by the Department and the U.S. Fish and Wildlife Service (Service). Other research locations and activities may be added by the Department and the Service in the future.

The proposed research consists of tracking and monitoring eagles for the purposes of determining the effects of habitat loss and fire on the eagle and to better understand the movements and habitat requirements of the species. Additionally, this research will investigate the effects of bio-contaminants, such as lead and anti-coagulant rodenticides, on the eagle. Mr. Kidd and any others deemed qualified by the Department, would collect data by live capturing, banding, color-marking, attaching/removing biotelemetry devices (e.g., GSM/Solar/GPS backpack unit), and collecting blood and feather samples from the eagle. Blood and feather samples, and any eagles found dead, will be collected and sent to scientific institutions for analysis, as designated by the Department and the Service. Once research purposes have been fulfilled, feather samples and carcasses will be shipped to the National Eagle Repository (5650 Havana St, RMA, Bldg. 128; Commerce City, CO

80022) for distribution to federally-recognized Native American tribal members.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Mr. Kidd as the Principal Investigator, to carry out the proposed research activities on the eagle. The applicant is also required to have valid federal permits for the eagle, and a scientific collecting permit (SCP) to incidentally take other bird species in California.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected bird species after 30 days’ notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after April 27, 2015, for an initial and renewable term of up to, but not to exceed four years. Contact: Carie Battistone, Carie.Battistone@wildlife.ca.gov, 916-445-3615

DEPARTMENT OF HEALTH CARE SERVICES

THE DEPARTMENT OF HEALTH CARE SERVICES PROPOSES TO SUBMIT A STATE PLAN AMENDMENT TO ESTABLISH MEDICAL REIMBURSEMENT METHODOLOGY FOR THE NEW HOSPITAL AS DEFINED IN WELFARE AND INSTITUTIONS CODE SECTION 14165.50

This notice is to provide information of public interest about the proposed payment methodology for the new hospital described in Welfare and Institutions Code section 14165.50. The new hospital is a health facility that is certified under Title XVIII (Medicare) and Title XIX (Medicaid) of the federal Social Security Act, and is licensed by the State of California to provide acute inpatient hospitals services, with an inpatient hospital service location of Martin Luther King, Jr. — Los Angeles (MLK-LA) Healthcare Corporation dba: Martin Luther King, Jr. Community Hospital, on the campus of the former Los Angeles County Martin Luther King, Jr.—Harbor Hospital.

Welfare and Institutions Code section 14165.50 establishes reimbursement based on projected costs and supplemental payments for the new hospital. The effective date of the State Plan Amendment (“SPA”) will be the later of April 1, 2015, or the date upon which the new hospital commences operation. The proposed SPA is subject to approval by the Federal Centers for Medicare & Medicaid Services.

Currently under the approved Medicaid State Plan, the new hospital would receive its base Medi-Cal payments (not including supplemental payments available to qualified private hospitals) under the All Patient Reefined — Diagnosis Related Group (APR-DRG) methodology. To facilitate the success of the new hospital in providing critical health care to the South Los Angeles population, which is dependent upon adequate and predictable funding levels, the Department of Health Care Services (Department) will submit for federal approval a SPA to authorize a reimbursement methodology for the new hospital based on its projected Medi-Cal costs and that allows for reimbursement above those amounts calculated pursuant to the APR-DRG methodology.

The reimbursement methodology for the new hospital shall include a Minimum Payment Level, which shall be a percentage of the hospital's projected costs determined by the Department in consultation with the hospital and the County of Los Angeles. This percentage shall not be less than 77 percent of the new hospital's projected cost for each state fiscal year through the 2016-17 fiscal year, and shall not be less than 72 percent of the new hospital's projected costs for each fiscal year thereafter. Supplemental payments may be made to the new hospital to meet the minimum funding requirements. The new hospital may receive reimbursement above the Minimum Payment Level for a given fiscal year, and at a minimum of 100 percent of projected costs, to the extent funding for the nonfederal share of such payments is made available by the County of Los Angeles. The supplemental payment amounts shall be determined by the Department in consultation with the new hospital and the County of Los Angeles, shall be deemed reasonable, ensure and promote access to and availability of hospital services for Medi-Cal beneficiaries, and shall not result in payments that exceed applicable federal payment limits. These payments do not take into account payments that the new hospital may receive through the State's hospital Quality Assurance Fee Program or any other State program funded in whole or in part by a statewide hospital fee or tax. The proposed Minimum Payment Levels are set forth in Welfare and Institutions Code section 14165.50.

The reimbursement methodology takes into account the unique situation of this new hospital, which is anticipated to serve a disproportionate number of low-income patients with special needs. The Department does not expect any increase or decrease in annual aggregate expenditures as a result of this proposed change.

PUBLIC REVIEW AND COMMENTS

The California statutes mentioned above are available for public review at Welfare offices in every county of the State. Written comments (or requests for copies of the statutes and/or copies of the written comments) may be requested, in writing, to: Mr. John Mendoza, Department of Health Care Services, Safety Net Financing Division, MS 4504, P.O. Box 997436, Sacramento, CA 95899-7436.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

**NOTICE TO INTERESTED PARTIES
March 27, 2015**

**CHEMICAL LISTED EFFECTIVE March 27, 2015
AS KNOWN TO THE STATE OF CALIFORNIA
TO CAUSE CANCER:
BETA-MYRCENE**

Effective **March 27, 2015**, the Office of Environmental Health Hazard Assessment (OEHHA) is adding *beta-myrcene* (CAS No. 123-35-3) to the list of chemicals known to the state to cause cancer for purposes of Proposition 65¹.

The listing of *beta-myrcene* is based on formal identification by the National Toxicology Program (NTP), an authoritative body², that the chemical causes cancer. The criteria used by OEHHA for the listing of chemicals under the "authoritative bodies" mechanism can be found in Title 27, Cal. Code of Regs., section 25306.

The documentation supporting OEHHA's determination that the criteria for administrative listing have been satisfied for beta-myrcene is included in the "Notice of Intent to List beta-Myrcene" posted on OEHHA's website and published in the February 7, 2014 issue of the

¹ The Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.5 et seq.

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

California Regulatory Notice Register (Register 2014, No. 6–Z). The publication of the notice initiated a public comment period that closed on March 24, 2014. OEHHA received three public comments. Those comments and OEHHA’s responses are posted on our website at: http://oehha.ca.gov/prop65/CRNR_notices/admin_listing/intent_to_list/noilpkg44betamyrcene.html.

A complete, updated chemical list is published elsewhere in this issue of the *California Regulatory Notice Register* and is available on the OEHHA website at http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.ca.gov. In summary, beta–myrcene is listed under Proposition 65 as known to the state to cause cancer, as follows:

Chemical	CASNo.	Toxicological Endpoints	Listing Mechanism*
beta–Myrcene	123–35–3	Cancer	AB (NTP)

*Listing mechanism: AB — “authoritative bodies” mechanism (Title 27, Cal. Code of Regs. section 25306).

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

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

**NOTICE TO INTERESTED PARTIES
March 27, 2015**

CHEMICAL LISTED EFFECTIVE AUGUST 3, 2015

AS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE REPRODUCTIVE TOXICITY: ATRAZINE, PROPАЗINE, SIMAZINE AND THEIR CHLOROMETABOLITES DACT, DEA AND DIA

Effective **August 3, 2015**, the Office of Environmental Health Hazard Assessment (OEHHA) is adding *atrazine*, *propazine*, *simazine*, *des–ethyl atrazine (DEA)*, *des–isopropyl atrazine (DIA)* and *2,3–diamino–6–chloro–s–triazine (DACT)* to the list of

chemicals known to the state to cause reproductive toxicity for purposes of Proposition 65¹.

The listing of these six chemicals is based on formal identification by the US Environmental Protection Agency (US EPA), an authoritative body², of these six chemicals as causing reproductive toxicity (developmental and female reproductive endpoints). The criteria used by OEHHA for the listing of chemicals under the “authoritative bodies” mechanism can be found in Title 27, Cal. Code of Regs., section 25306.

The documentation supporting OEHHA’s determination that the criteria for administrative listing have been satisfied for atrazine, propazine, simazine, DACT, DEA, and DIA is included in the Notice of Intent to List posted on OEHHA’s website and published in the February 7, 2014 issue of the California Regulatory Notice Register (Register 2014, No. 6–Z). OEHHA received nine public comments on the Notice of Intent to List. The comments and OEHHA’s responses are posted with the Notice of Intent to List.

In summary, these six chemicals are being listed under Proposition 65 effective August 3, 2015 as known to the State to cause reproductive toxicity, as follows:

Chemical	CASNo.	Toxicological Endpoints	Listing Mechanism*
Atrazine	1912–24–9	Developmental toxicity	AB (US EPA)
Propazine	139–40–2		
Simazine	122–34–9		
Des–ethyl atrazine (DEA)	6190–65–4	Female reproductive toxicity	
Des–isopropyl atrazine (DIA)	1007–28–9		
2,3–Diamino–6–chloro–s–triazine (DACT)	3397–62–4		

*Listing mechanism: AB — “authoritative bodies” mechanism (Title 27, Cal. Code of Regs. section 25306).

¹ The Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.5 et seq.

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

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

**CHEMICALS KNOWN TO THE STATE
TO CAUSE CANCER OR
REPRODUCTIVE TOXICITY
March 27, 2015**

The Safe Drinking Water and Toxic Enforcement Act of 1986 requires that the Governor revise and republish at least once per year the list of chemicals known to the State to cause cancer or reproductive toxicity. The identification number indicated in the following list is the Chemical Abstracts Service (CAS) Registry Number. No CAS number is given when several substances are presented as a single listing. The date refers to the initial appearance of the chemical on the list. For easy reference, chemicals which are shown underlined are newly added. Chemicals which are shown with a strikethrough were placed on the list with the date noted, and have subsequently been removed.

CHEMICALS KNOWN TO THE STATE TO CAUSE CANCER

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
A-alpha-C (2-Amino-9H-pyrido[2,3-b]indole)	26148-68-5	January 1, 1990
Acetaldehyde	75-07-0	April 1, 1988
Acetamide	60-35-5	January 1, 1990
Acetochlor	34256-82-1	January 1, 1989
2-Acetylaminofluorene	53-96-3	July 1, 1987
Acifluorfen sodium	62476-59-9	January 1, 1990
Acrylamide	79-06-1	January 1, 1990
Acrylonitrile	107-13-1	July 1, 1987
Actinomycin D	50-76-0	October 1, 1989
AF-2;[2-(2-furyl)-3-(5-nitro-2-furyl)]acrylamide	3688-53-7	July 1, 1987
Aflatoxins	—	January 1, 1988
Alachlor	15972-60-8	January 1, 1989
Alcoholic beverages, when associated with alcohol abuse	—	July 1, 1988
Aldrin	309-00-2	July 1, 1988
<u>Allyl chloride</u> <u>Delisted October 29, 1999</u>	107-05-1	January 1, 1990
2-Aminoanthraquinone	117-79-3	October 1, 1989
<i>p</i> -Aminoazobenzene	60-09-3	January 1, 1990
<i>ortho</i> -Aminoazotoluene	97-56-3	July 1, 1987
4-Aminobiphenyl (4-aminodiphenyl)	92-67-1	February 27, 1987
1-Amino-2,4-dibromoanthraquinone	81-49-2	August 26, 1997
3-Amino-9-ethylcarbazole hydrochloride	6109-97-3	July 1, 1989
2-Aminofluorene	153-78-6	January 29, 1999
1-Amino-2-methylanthraquinone	82-28-0	October 1, 1989
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazole	712-68-5	July 1, 1987
4-Amino-2-nitrophenol	119-34-6	January 29, 1999
Amitrole	61-82-5	July 1, 1987
Amsacrine	51264-14-3	August 7, 2009
Analgesic mixtures containing phenacetin	—	February 27, 1987
Androstenedione	63-05-8	May 3, 2011
Aniline	62-53-3	January 1, 1990
Aniline hydrochloride	142-04-1	May 15, 1998
<i>ortho</i> -Anisidine	90-04-0	July 1, 1987
<i>ortho</i> -Anisidine hydrochloride	134-29-2	July 1, 1987
Antimony oxide (Antimony trioxide)	1309-64-4	October 1, 1990
Anthraquinone	84-65-1	September 28, 2007
Aramite	140-57-8	July 1, 1987
Areca nut	—	February 3, 2006

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
Aristolochic acids	—	July 9, 2004
Arsenic (inorganic arsenic compounds)	—	February 27, 1987
Asbestos	1332-21-4	February 27, 1987
Auramine	492-80-8	July 1, 1987
Azacitidine	320-67-2	January 1, 1992
Azaserine	115-02-6	July 1, 1987
Azathioprine	446-86-6	February 27, 1987
Azobenzene	103-33-3	January 1, 1990
Benthiavalicarb-isopropyl	177406-68-7	July 1, 2008
Benz[a]anthracene	56-55-3	July 1, 1987
Benzene	71-43-2	February 27, 1987
Benzidine [and its salts]	92-87-5	February 27, 1987
Benzidine-based dyes	—	October 1, 1992
Benzo[b]fluoranthene	205-99-2	July 1, 1987
Benzo[j]fluoranthene	205-82-3	July 1, 1987
Benzo[k]fluoranthene	207-08-9	July 1, 1987
Benzofuran	271-89-6	October 1, 1990
Benzophenone	119-61-9	June 22, 2012
Benzo[a]pyrene	50-32-8	July 1, 1987
Benzotrichloride	98-07-7	July 1, 1987
Benzyl chloride	100-44-7	January 1, 1990
Benzyl violet 4B	1694-09-3	July 1, 1987
Beryllium and beryllium compounds	—	October 1, 1987
Betel quid with tobacco	—	January 1, 1990
Betel quid without tobacco	—	February 3, 2006
2,2-Bis(bromomethyl)-1,3-propanediol	3296-90-0	May 1, 1996
Bis(2-chloroethyl)ether	111-44-4	April 1, 1988
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornapazine)	494-03-1	February 27, 1987
Bischloroethyl nitrosourea (BCNU) (Carmustine)	154-93-8	July 1, 1987
Bis(chloromethyl)ether	542-88-1	February 27, 1987
Bis(2-chloro-1-methylethyl) ether, technical grade	—	October 29, 1999
Bitumens, extracts of steam-refined and air refined	—	January 1, 1990
Bracken fern	—	January 1, 1990
Bromate	15541-45-4	May 31, 2002
Bromochloroacetic acid	5589-96-8	April 6, 2010
Bromodichloromethane	75-27-4	January 1, 1990
Bromoethane	74-96-4	December 22, 2000
Bromoform	75-25-2	April 1, 1991
1,3-Butadiene	106-99-0	April 1, 1988
1,4-Butanediol dimethanesulfonate (Busulfan)	55-98-1	February 27, 1987
Butylated hydroxyanisole	25013-16-5	January 1, 1990
beta-Butyrolactone	3068-88-0	July 1, 1987
Cacodylic acid	75-60-5	May 1, 1996
Cadmium and cadmium compounds	—	October 1, 1987
Caffeic acid	331-39-5	October 1, 1994
Captafol	2425-06-1	October 1, 1988
Captan	133-06-2	January 1, 1990
Carbaryl	63-25-2	February 5, 2010
Carbazole	86-74-8	May 1, 1996
Carbon black (airborne, unbound particles of respirable size)	1333-86-4	February 21, 2003
Carbon tetrachloride	56-23-5	October 1, 1987
Carbon-black extracts	—	January 1, 1990

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<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
N-Carboxymethyl-N-nitrosourea	60391-92-6	January 25, 2002
Catechol	120-80-9	July 15, 2003
Ceramic fibers (airborne particles of respirable size)	—	July 1, 1990
Certain combined chemotherapy for lymphomas	—	February 27, 1987
Chloral	75-87-6	September 13, 2013
Chloral hydrate	302-17-0	September 13, 2013
Chlorambucil	305-03-3	February 27, 1987
Chloramphenicol <u>Delisted January 4, 2013</u>	56-75-7	October 1, 1989
Chloramphenicol sodium succinate	982-57-0	September 27, 2013
Chlordane	57-74-9	July 1, 1988
Chlordecone (Kepone)	143-50-0	January 1, 1988
Chlordimeform	6164-98-3	January 1, 1989
Chlorendic acid	115-28-6	July 1, 1989
Chlorinated paraffins (Average chain length, C12; approximately 60 percent chlorine by weight)	108171-26-2	July 1, 1989
<i>p</i> -Chloroaniline	106-47-8	October 1, 1994
<i>p</i> -Chloroaniline hydrochloride	20265-96-7	May 15, 1998
Chlorodibromomethane <u>Delisted October 29, 1999</u>	124-48-1	January 1, 1990
Chloroethane (Ethyl chloride)	75-00-3	July 1, 1990
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU)	13010-47-4	January 1, 1988
(Lomustine)		
1-(2-Chloroethyl)-3-(4-methylcyclohexyl)-1-nitrosourea (Methyl-CCNU)	13909-09-6	October 1, 1988
Chloroform	67-66-3	October 1, 1987
Chloromethyl methyl ether (technical grade)	107-30-2	February 27, 1987
3-Chloro-2-methylpropene	563-47-3	July 1, 1989
1-Chloro-4-nitrobenzene	100-00-5	October 29, 1999
4-Chloro-ortho-phenylenediamine	95-83-0	January 1, 1988
<i>p</i> -Chloro- <i>o</i> -toluidine	95-69-2	January 1, 1990
<i>p</i> -Chloro- <i>o</i> -toluidine, strong acid salts of	—	May 15, 1998
5-Chloro- <i>o</i> -toluidine and its strong acid salts	—	October 24, 1997
Chloroprene	126-99-8	June 2, 2000
Chlorothalonil	1897-45-6	January 1, 1989
Chlorotrianisene	569-57-3	September 1, 1996
Chlorozotocin	54749-90-5	January 1, 1992
Chromium (hexavalent compounds)	—	February 27, 1987
Chrysene	218-01-9	January 1, 1990
C.I. Acid Red 114	6459-94-5	July 1, 1992
C.I. Basic Red 9 monohydrochloride	569-61-9	July 1, 1989
C.I. Direct Blue 15	2429-74-5	August 26, 1997
C.I. Direct Blue 218	28407-37-6	August 26, 1997
C.I. Disperse Yellow 3	2832-40-8	February 8, 2013
C.I. Solvent Yellow 14	842-07-9	May 15, 1998
Ciclosporin (Cyclosporin A; Cyclosporine)	59865-13-3	January 1, 1992
	79217-60-0	
Cidofovir	113852-37-2	January 29, 1999
Cinnamyl anthranilate	87-29-6	July 1, 1989
Cisplatin	15663-27-1	October 1, 1988
Citrus Red No. 2	6358-53-8	October 1, 1989
Clofibrate	637-07-0	September 1, 1996
Clomiphene citrate	50-41-9	May 24, 2013
Cobalt metal powder	7440-48-4	July 1, 1992
Cobalt [II] oxide	1307-96-6	July 1, 1992

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
Cobalt sulfate	10124-43-3	May 20, 2005
Cobalt sulfate heptahydrate	10026-24-1	June 2, 2000
Coconut oil diethanolamine condensate (cocamide diethanolamine)	68603-42-9	June 22, 2012
Coke oven emissions	—	February 27, 1987
Conjugated estrogens	—	February 27, 1987
Creosotes	—	October 1, 1988
<i>para</i> -Cresidine	120-71-8	January 1, 1988
Cumene	98-82-8	April 6, 2010
Cupferron	135-20-6	January 1, 1988
Cycasin	14901-08-7	January 1, 1988
Cyclopenta[<i>cd</i>]pyrene	27208-37-3	April 29, 2011
Cyclophosphamide (anhydrous)	50-18-0	February 27, 1987
Cyclophosphamide (hydrated)	6055-19-2	February 27, 1987
Cytembena	21739-91-3	May 15, 1998
D&C Orange No. 17	3468-63-1	July 1, 1990
D&C Red No. 8	2092-56-0	October 1, 1990
D&C Red No. 9	5160-02-1	July 1, 1990
D&C Red No. 19	81-88-9	July 1, 1990
Dacarbazine	4342-03-4	January 1, 1988
Daminozide	1596-84-5	January 1, 1990
Dantron (Chrysazin; 1,8-Dihydroxyanthraquinone)	117-10-2	January 1, 1992
Daunomycin	20830-81-3	January 1, 1988
DDD (Dichlorodiphenyldichloroethane)	72-54-8	January 1, 1989
DDE (Dichlorodiphenyldichloroethylene)	72-55-9	January 1, 1989
DDT (Dichlorodiphenyltrichloroethane)	50-29-3	October 1, 1987
DDVP (Dichlorvos)	62-73-7	January 1, 1989
N,N' -Diacetylbenzidine	613-35-4	October 1, 1989
2,4-Diaminoanisole	615-05-4	October 1, 1990
2,4-Diaminoanisole sulfate	39156-41-7	January 1, 1988
4,4' -Diaminodiphenyl ether (4,4' -Oxydianiline)	101-80-4	January 1, 1988
2,4-Diaminotoluene	95-80-7	January 1, 1988
Diaminotoluene (mixed)	—	January 1, 1990
Diazoaminobenzene	136-35-6	May 20, 2005
Dibenz[<i>a,h</i>]acridine	226-36-8	January 1, 1988
Dibenz[<i>a,j</i>]acridine	224-42-0	January 1, 1988
Dibenzanthracenes		December 26, 2014
Dibenz[<i>a,c</i>]anthracene	215-58-7	December 26, 2014
Dibenz[<i>a,h</i>]anthracene	53-70-3	January 1, 1988
Dibenz[<i>a,j</i>]anthracene	224-41-9	December 26, 2014
7H-Dibenzo[<i>c,g</i>]carbazole	194-59-2	January 1, 1988
Dibenzo[<i>a,e</i>]pyrene	192-65-4	January 1, 1988
Dibenzo[<i>a,h</i>]pyrene	189-64-0	January 1, 1988
Dibenzo[<i>a,i</i>]pyrene	189-55-9	January 1, 1988
Dibenzo[<i>a,l</i>]pyrene	191-30-0	January 1, 1988
Dibromoacetic acid	631-64-1	June 17, 2008
Dibromoacetonitrile	3252-43-5	May 3, 2011
1,2-Dibromo-3-chloropropane (DBCP)	96-12-8	July 1, 1987
2,3-Dibromo-1-propanol	96-13-9	October 1, 1994
Dichloroacetic acid	79-43-6	May 1, 1996
<i>p</i> -Dichlorobenzene	106-46-7	January 1, 1989
3,3' -Dichlorobenzidine	91-94-1	October 1, 1987
3,3' -Dichlorobenzidine dihydrochloride	612-83-9	May 15, 1998
1,4-Dichloro-2-butene	764-41-0	January 1, 1990

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<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
3,3'-Dichloro-4,4'-diaminodiphenyl ether	28434-86-8	January 1, 1988
1,1-Dichloroethane	75-34-3	January 1, 1990
Dichloromethane (Methylene chloride)	75-09-2	April 1, 1988
1,2-Dichloropropane	78-87-5	January 1, 1990
1,3-Dichloro-2-propanol (1,3-DCP)	96-23-1	October 8, 2010
1,3-Dichloropropene	542-75-6	January 1, 1989
Diclofop-methyl	51338-27-3	April 6, 2010
Dieldrin	60-57-1	July 1, 1988
Dienestrol <u>Delisted January 4, 2013</u>	84-17-3	January 1, 1990
Diepoxybutane	1464-53-5	January 1, 1988
Diesel engine exhaust	—	October 1, 1990
Diethanolamine	111-42-2	June 22, 2012
Di(2-ethylhexyl)phthalate	117-81-7	January 1, 1988
1,2-Diethylhydrazine	1615-80-1	January 1, 1988
Diethyl sulfate	64-67-5	January 1, 1988
Diethylstilbestrol (DES)	56-53-1	February 27, 1987
Diglycidyl resorcinol ether (DGRE)	101-90-6	July 1, 1989
Dihydrosafrole	94-58-6	January 1, 1988
Diisononyl phthalate (DINP)	—	December 20, 2013
Diisopropyl sulfate	2973-10-6	April 1, 1993
3,3'-Dimethoxybenzidine (ortho-Dianisidine)	119-90-4	January 1, 1988
3,3'-Dimethoxybenzidine dihydrochloride (ortho-Dianisidine dihydrochloride)	20325-40-0	October 1, 1990
3,3'-Dimethoxybenzidine-based dyes metabolized to 3,3'-dimethoxybenzidine	—	June 11, 2004
3,3'-Dimethylbenzidine-based dyes metabolized to 3,3'-dimethylbenzidine	—	June 11, 2004
Dimethyl sulfate	77-78-1	January 1, 1988
4-Dimethylaminoazobenzene	60-11-7	January 1, 1988
trans-2-[(Dimethylamino)methylimino]-5-[2-(5-nitro-2-furyl)vinyl]-1,3,4-oxadiazole	55738-54-0	January 1, 1988
7,12-Dimethylbenz(a)anthracene	57-97-6	January 1, 1990
3,3'-Dimethylbenzidine (ortho-Tolidine)	119-93-7	January 1, 1988
3,3'-Dimethylbenzidine dihydrochloride	612-82-8	April 1, 1992
Dimethylcarbonyl chloride	79-44-7	January 1, 1988
1,1-Dimethylhydrazine (UDMH)	57-14-7	October 1, 1989
1,2-Dimethylhydrazine	540-73-8	January 1, 1988
2,6-Dimethyl-N-nitrosomorpholine (DMNM)	1456-28-6	February 8, 2013
N,N-Dimethyl-p-toluidine	99-97-8	May 2, 2014
Dimethylvinylchloride	513-37-1	July 1, 1989
3,7-Dinitrofluoranthene	105735-71-5	August 26, 1997
3,9-Dinitrofluoranthene	22506-53-2	August 26, 1997
1,3-Dinitropyrene	75321-20-9	November 2, 2012
1,6-Dinitropyrene	42397-64-8	October 1, 1990
1,8-Dinitropyrene	42397-65-9	October 1, 1990
Dinitrotoluene mixture, 2,4-/2,6-	—	May 1, 1996
2,4-Dinitrotoluene	121-14-2	July 1, 1988
2,6-Dinitrotoluene	606-20-2	July 1, 1995
Di-n-propyl isocinchomeronate (MGK Repellent 326)	136-45-8	May 1, 1996
1,4-Dioxane	123-91-1	January 1, 1988
Diphenylhydantoin (Phenytoin)	57-41-0	January 1, 1988
Diphenylhydantoin (Phenytoin), sodium salt	630-93-3	January 1, 1988
Direct Black 38 (technical grade)	1937-37-7	January 1, 1988
Direct Blue 6 (technical grade)	2602-46-2	January 1, 1988

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
Direct Brown 95 (technical grade)	16071-86-6	October 1, 1988
Disperse Blue 1	2475-45-8	October 1, 1990
Diuron	330-54-1	May 31, 2002
Doxorubicin hydrochloride (Adriamycin)	25316-40-9	July 1, 1987
Emissions from combustion of coal	—	August 7, 2013
Emissions from high-temperature unrefined rapeseed oil	—	January 3, 2014
Epichlorohydrin	106-89-8	October 1, 1987
Epoxiconazole	135319-73-2	April 15, 2011
Erionite	12510-42-8/ 66733-21-9	October 1, 1988
Estradiol 17B	50-28-2	January 1, 1988
Estragole	140-67-0	October 29, 1999
Estrogens, steroidal	—	August 19, 2005
Estrogen-progestogen (combined) used as menopausal therapy	—	November 4, 2011
Estrone	53-16-7	January 1, 1988
Estropipate	7280-37-7	August 26, 1997
Ethanol in alcoholic beverages	—	April 29, 2011
Ethinylestradiol	57-63-6	January 1, 1988
Ethoprop	13194-48-4	February 27, 2001
Ethyl acrylate	140-88-5	July 1, 1989
Ethylbenzene	100-41-4	June 11, 2004
Ethyl methanesulfonate	62-50-0	January 1, 1988
Ethyl-4,4'-dichlorobenzilate	510-15-6	January 1, 1990
Ethylene dibromide	106-93-4	July 1, 1987
Ethylene dichloride (1,2-Dichloroethane)	107-06-2	October 1, 1987
Ethylene oxide	75-21-8	July 1, 1987
Ethylene thiourea	96-45-7	January 1, 1988
Ethyleneimine (Aziridine)	151-56-4	January 1, 1988
Etoposide	33419-42-0	November 4, 2011
Etoposide in combination with cisplatin and bleomycin	—	November 4, 2011
Fenoxycarb	72490-01-8	June 2, 2000
Folpet	133-07-3	January 1, 1989
Formaldehyde (gas)	50-00-0	January 1, 1988
2-(2-Formylhydrazino)-4-(5-nitro-2-furyl)thiazole	3570-75-0	January 1, 1988
FumonisinB ₁	116355-83-0	November 14, 2003
Furan	110-00-9	October 1, 1993
Furazolidone	67-45-8	January 1, 1990
Furmecyclox	60568-05-0	January 1, 1990
Fusarin C	79748-81-5	July 1, 1995
Gallium arsenide	1303-00-0	August 1, 2008
Ganciclovir	82410-32-0	August 26, 1997
Gasoline engine exhaust (condensates/extracts)	—	October 1, 1990
Gemfibrozil	25812-30-0	December 22, 2000
Glass wool fibers (inhalable and biopersistent)	—	July 1, 1990
Glu-P-1 (2-Amino-6-methyldipyrido[1,2-a:3',2'-d]imidazole)	67730-11-4	January 1, 1990
Glu-P-2 (2-Aminodipyrido[1,2-a:3',2'-d]imidazole)	67730-10-3	January 1, 1990
Glycidaldehyde	765-34-4	January 1, 1988
Glycidol	556-52-5	July 1, 1990
Griseofulvin	126-07-8	January 1, 1990
Gyromitrin (Acetaldehyde methylformylhydrazone)	16568-02-8	January 1, 1988
HC Blue 1	2784-94-3	July 1, 1989
Heptachlor	76-44-8	July 1, 1988

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<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Heptachlor epoxide	1024-57-3	July 1, 1988
Herbal remedies containing plant species of the genus Aristolochia	—	July 9, 2004
Hexachlorobenzene	118-74-1	October 1, 1987
Hexachlorobutadiene	87-68-3	May 3, 2011
Hexachlorocyclohexane (technical grade)	—	October 1, 1987
Hexachlorodibenzodioxin	34465-46-8	April 1, 1988
Hexachloroethane	67-72-1	July 1, 1990
2,4-Hexadienal (89% trans, trans isomer; 11% cis, trans isomer)	—	March 4, 2005
Hexamethylphosphoramide	680-31-9	January 1, 1988
Hydrazine	302-01-2	January 1, 1988
Hydrazine sulfate	10034-93-2	January 1, 1988
Hydrazobenzene (1,2-Diphenylhydrazine)	122-66-7	January 1, 1988
1-Hydroxyanthraquinone	129-43-1	May 27, 2005
Imazalil	35554-44-0	May 20, 2011
Indeno [1,2,3-cd]pyrene	193-39-5	January 1, 1988
Indium phosphide	22398-80-7	February 27, 2001
IQ (2-Amino-3-methylimidazo[4,5-f]quinoline)	76180-96-6	April 1, 1990
Iprodione	36734-19-7	May 1, 1996
Iprovalicarb	140923-17-7	June 1, 2007
	140923-25-7	
Iron dextran complex	9004-66-4	January 1, 1988
Isobutyl nitrite	542-56-3	May 1, 1996
Isoprene	78-79-5	May 1, 1996
Isopyrazam	881686-58-1	July 24, 2012
Isosafrole <u>Delisted December 8, 2006</u>	120-58-1	October 1, 1989
Isoxaflutole	141112-29-0	December 22, 2000
Kresoxim-methyl	143390-89-0	February 3, 2012
Lactofen	77501-63-4	January 1, 1989
Lasiocarpine	303-34-4	April 1, 1988
Lead acetate	301-04-2	January 1, 1988
Lead and lead compounds	—	October 1, 1992
Lead phosphate	7446-27-7	April 1, 1988
Lead subacetate	1335-32-6	October 1, 1989
Leather dust	—	April 29, 2011
Lindane and other hexachlorocyclohexane isomers	—	October 1, 1989
Lynestrenol	52-76-6	February 27, 2001
Malonaldehyde, sodium salt	24382-04-5	May 3, 2011
Mancozeb	8018-01-7	January 1, 1990
Maneb	12427-38-2	January 1, 1990
Marijuana smoke	—	June 19, 2009
Me-A-alpha-C (2-Amino-3-methyl-9H-pyrido[2,3-b]indole)	68006-83-7	January 1, 1990
Medroxyprogesterone acetate	71-58-9	January 1, 1990
Megestrol acetate	595-33-5	March 28, 2014
MeIQ(2-Amino-3,4-dimethylimidazo[4,5-f]quinoline)	77094-11-2	October 1, 1994
MeIQx(2-Amino-3,8-dimethylimidazo[4,5-f]quinoxaline)	77500-04-0	October 1, 1994
Melphalan	148-82-3	February 27, 1987
Mepanipyridin	110235-47-7	July 1, 2008
Merphalan	531-76-0	April 1, 1988
Mestranol	72-33-3	April 1, 1988
Metam potassium	137-41-7	December 31, 2010
Metham sodium	137-42-8	November 6, 1998
8-Methoxypsoralen with ultraviolet A therapy	298-81-7	February 27, 1987
5-Methoxypsoralen with ultraviolet A therapy	484-20-8	October 1, 1988

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<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
2-Methylaziridine (Propyleneimine)	75-55-8	January 1, 1988
Methylazoxymethanol	590-96-5	April 1, 1988
Methylazoxymethanol acetate	592-62-1	April 1, 1988
Methyl carbamate	598-55-0	May 15, 1998
3-Methylcholanthrene	56-49-5	January 1, 1990
5-Methylchrysene	3697-24-3	April 1, 1988
4,4' -Methylene bis(2-chloroaniline)	101-14-4	July 1, 1987
4,4' -Methylene bis(N,N-dimethyl)benzenamine	101-61-1	October 1, 1989
4,4' -Methylene bis(2-methylaniline)	838-88-0	April 1, 1988
4,4' -Methylenedianiline	101-77-9	January 1, 1988
4,4' -Methylenedianiline dihydrochloride	13552-44-8	January 1, 1988
Methyleugenol	93-15-2	November 16, 2001
Methylhydrazine and its salts	—	July 1, 1992
2-Methylimidazole	693-98-1	June 22, 2012
4-Methylimidazole	822-36-6	January 7, 2011
Methyl iodide	74-88-4	April 1, 1988
Methyl isobutyl ketone	108-10-1	November 4, 2011
Methylmercury compounds	—	May 1, 1996
Methyl methanesulfonate	66-27-3	April 1, 1988
2-Methyl-1-nitroanthraquinone (of uncertain purity)	129-15-7	April 1, 1988
N-Methyl-N' -nitro-N-nitrosoguanidine	70-25-7	April 1, 1988
N-Methylolacrylamide	924-42-5	July 1, 1990
α -Methyl styrene (alpha-Methylstyrene)	98-83-9	November 2, 2012
Methylthiouracil	56-04-2	October 1, 1989
Metiram	9006-42-2	January 1, 1990
Metronidazole	443-48-1	January 1, 1988
Michler's ketone	90-94-8	January 1, 1988
Mirex	2385-85-5	January 1, 1988
Mitomycin C	50-07-7	April 1, 1988
Mitoxantrone hydrochloride	70476-82-3	January 23, 2015
MON 4660 (dichloroacetyl-1-oxa-4-azaspiro(4,5)-decane)	71526-07-3	March 22, 2011
MON 13900 (furylazole)	121776-33-8	March 22, 2011
3-Monochloropropane-1,2-diol (3-MCPD)	96-24-2	October 8, 2010
Monocrotaline	315-22-0	April 1, 1988
MOPP (vincristine-prednisone-nitrogen mustard-procarbazine mixture)	113803-47-7	November 4, 2011
5-(Morpholinomethyl)-3-[(5-nitro-furfurylidene)-amino]-2-oxazolidinone	139-91-3	April 1, 1988
Mustard Gas	505-60-2	February 27, 1987
MX (3-chloro-4-(dichloromethyl)-5-hydroxy-2(5H)-furanone)	77439-76-0	December 22, 2000
beta-Myrcene	123-35-3	March 27, 2015
Nafenopin	3771-19-5	April 1, 1988
Nalidixic acid	389-08-2	May 15, 1998
Naphthalene	91-20-3	April 19, 2002
1-Naphthylamine	134-32-7	October 1, 1989
2-Naphthylamine	91-59-8	February 27, 1987
Nickel (Metallic)	7440-02-0	October 1, 1989
Nickel acetate	373-02-4	October 1, 1989
Nickel carbonate	3333-67-3	October 1, 1989
Nickel carbonyl	13463-39-3	October 1, 1987
Nickel compounds	—	May 7, 2004

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Nickel hydroxide	12054-48-7; 12125-56-3	October 1, 1989
Nickelocene	1271-28-9	October 1, 1989
Nickel oxide	1313-99-1	October 1, 1989
Nickel refinery dust from the pyrometallurgical process	—	October 1, 1987
Nickel subsulfide	12035-72-2	October 1, 1987
Niridazole	61-57-4	April 1, 1988
Nitrapyrin	1929-82-4	October 5, 2005
Nitrilotriacetic acid	139-13-9	January 1, 1988
Nitrilotriacetic acid, trisodium salt monohydrate	18662-53-8	April 1, 1989
5-Nitroacenaphthene	602-87-9	April 1, 1988
5-Nitro- <i>o</i> -anisidine <u>Delisted December 8, 2006</u>	99-59-2	October 1, 1989
<i>o</i> -Nitroanisole	91-23-6	October 1, 1992
Nitrobenzene	98-95-3	August 26, 1997
4-Nitrobiphenyl	92-93-3	April 1, 1988
6-Nitrochrysene	7496-02-8	October 1, 1990
Nitrofen (technical grade)	1836-75-5	January 1, 1988
2-Nitrofluorene	607-57-8	October 1, 1990
Nitrofurazone	59-87-0	January 1, 1990
1-[(5-Nitrofurfurylidene)-amino]-2-imidazolidinone	555-84-0	April 1, 1988
N-[4-(5-Nitro-2-furyl)-2-thiazolyl]acetamide	531-82-8	April 1, 1988
Nitrogen mustard (Mechlorethamine)	51-75-2	January 1, 1988
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	55-86-7	April 1, 1988
Nitrogen mustard N-oxide	126-85-2	April 1, 1988
Nitrogen mustard N-oxide hydrochloride	302-70-5	April 1, 1988
Nitromethane	75-52-5	May 1, 1997
2-Nitropropane	79-46-9	January 1, 1988
1-Nitropyrene	5522-43-0	October 1, 1990
4-Nitropyrene	57835-92-4	October 1, 1990
N-Nitrosodi- <i>n</i> -butylamine	924-16-3	October 1, 1987
N-Nitrosodiethanolamine	1116-54-7	January 1, 1988
N-Nitrosodiethylamine	55-18-5	October 1, 1987
N-Nitrosodimethylamine	62-75-9	October 1, 1987
<i>p</i> -Nitrosodiphenylamine	156-10-5	January 1, 1988
N-Nitrosodiphenylamine	86-30-6	April 1, 1988
N-Nitrosodi- <i>n</i> -propylamine	621-64-7	January 1, 1988
N-Nitroso-N-ethylurea	759-73-9	October 1, 1987
3-(N-Nitrosomethylamino)propionitrile	60153-49-3	April 1, 1990
4-(N-Nitrosomethylamino)-1-(3-pyridyl)1-butanone	64091-91-4	April 1, 1990
N-Nitrosomethyl- <i>n</i> -butylamine	7068-83-9	December 26, 2014
N-Nitrosomethyl- <i>n</i> -decylamine	75881-22-0	December 26, 2014
N-Nitrosomethyl- <i>n</i> -dodecylamine	55090-44-3	December 26, 2014
N-Nitrosomethylethylamine	10595-95-6	October 1, 1989
N-Nitrosomethyl- <i>n</i> -heptylamine	16338-99-1	December 26, 2014
N-Nitrosomethyl- <i>n</i> -hexylamine	28538-70-7	December 26, 2014
N-Nitrosomethyl- <i>n</i> -nonylamine	75881-19-5	December 26, 2014
N-Nitrosomethyl- <i>n</i> -octylamine	34423-54-6	December 26, 2014
N-Nitrosomethyl- <i>n</i> -pentylamine	13256-07-0	December 26, 2014
N-Nitrosomethyl- <i>n</i> -propylamine	924-46-9	December 26, 2014
N-Nitrosomethyl- <i>n</i> -tetradecylamine	75881-20-8	December 26, 2014
N-Nitrosomethyl- <i>n</i> -undecylamine	68107-26-6	December 26, 2014
N-Nitroso-N-methylurea	684-93-5	October 1, 1987
N-Nitroso-N-methylurethane	615-53-2	April 1, 1988
N-Nitrosomethylvinylamine	4549-40-0	January 1, 1988

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
N-Nitrosomorpholine	59-89-2	January 1, 1988
N-Nitrosornicotine	16543-55-8	January 1, 1988
N-Nitrosopiperidine	100-75-4	January 1, 1988
N-Nitrosopyrrolidine	930-55-2	October 1, 1987
N-Nitrososarcosine	13256-22-9	January 1, 1988
<i>o</i> -Nitrotoluene	88-72-2	May 15, 1998
Norethisterone (Norethindrone)	68-22-4	October 1, 1989
Norethynodrel	68-23-5	February 27, 2001
Ochratoxin A	303-47-9	July 1, 1990
Oil Orange SS	2646-17-5	April 1, 1988
Oral contraceptives, combined	—	October 1, 1989
Oral contraceptives, sequential	—	October 1, 1989
Oryzalin	19044-88-3	September 12, 2008
Oxadiazon	19666-30-9	July 1, 1991
Oxazepam	604-75-1	October 1, 1994
Oxymetholone	434-07-1	January 1, 1988
Oxythioquinox (Chinomethionat)	2439-01-2	August 20, 1999
Palygorskite fibers (> 5µm in length)	12174-11-7	December 28, 1999
Panfuran S	794-93-4	January 1, 1988
Pentachlorophenol	87-86-5	January 1, 1990
Pentosan polysulfate sodium	—	April 18, 2014
Phenacetin	62-44-2	October 1, 1989
Phenazopyridine	94-78-0	January 1, 1988
Phenazopyridine hydrochloride	136-40-3	January 1, 1988
Phenesterin	3546-10-9	July 1, 1989
Phenobarbital	50-06-6	January 1, 1990
Phenolphthalein	77-09-8	May 15, 1998
Phenoxybenzamine	59-96-1	April 1, 1988
Phenoxybenzamine hydrochloride	63-92-3	April 1, 1988
<i>o</i> -Phenylenediamine and its salts	95-54-5	May 15, 1998
Phenyl glycidyl ether	122-60-1	October 1, 1990
Phenylhydrazine and its salts	—	July 1, 1992
<i>o</i> -Phenylphenate, sodium	132-27-4	January 1, 1990
<i>o</i> -Phenylphenol	90-43-7	August 4, 2000
PhiP(2-Amino-1-methyl-6-phenylimidazol[4,5-b]pyridine)	105650-23-5	October 1, 1994
Pioglitazone	111025-46-8	April 18, 2014
Polybrominated biphenyls	—	January 1, 1988
Polychlorinated biphenyls	—	October 1, 1989
Polychlorinated biphenyls (containing 60 or more percent chlorine by molecular weight)	—	January 1, 1988
Polychlorinated dibenzo-p-dioxins	—	October 1, 1992
Polychlorinated dibenzofurans	—	October 1, 1992
Polygeenan	53973-98-1	January 1, 1988
Ponceau MX	3761-53-3	April 1, 1988
Ponceau 3R	3564-09-8	April 1, 1988
Potassium bromate	7758-01-2	January 1, 1990
Primidone	125-33-7	August 20, 1999
Procarbazine	671-16-9	January 1, 1988
Procarbazine hydrochloride	366-70-1	January 1, 1988
Procymidone	32809-16-8	October 1, 1994
Progesterone	57-83-0	January 1, 1988
Pronamide	23950-58-5	May 1, 1996
Propachlor	1918-16-7	February 27, 2001

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<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
1,3-Propane sultone	1120-71-4	January 1, 1988
Propargite	2312-35-8	October 1, 1994
beta-Propiolactone	57-57-8	January 1, 1988
Propoxur	114-26-1	August 11, 2006
Propylene glycol mono- <i>t</i> -butyl ether	57018-52-7	June 11, 2004
Propylene oxide	75-56-9	October 1, 1988
Propylthiouracil	51-52-5	January 1, 1988
Pulegone	89-82-7	April 18, 2014
Pymetrozine	123312-89-0	March 22, 2011
Pyridine	110-86-1	May 17, 2002
Quinoline and its strong acid salts	—	October 24, 1997
Radionuclides	—	July 1, 1989
Reserpine	50-55-5	October 1, 1989
Residual (heavy) fuel oils	—	October 1, 1990
Resmethrin	10453-86-8	July 1, 2008
Riddelliine	23246-96-0	December 3, 2004
Saccharin <u>Delisted April 6, 2001</u>	81-07-2	October 1, 1989
Saccharin, sodium <u>Delisted January 17, 2003</u>	128-44-9	January 1, 1988
Safrole	94-59-7	January 1, 1988
Salted fish, Chinese-style	—	April 29, 2011
Selenium sulfide	7446-34-6	October 1, 1989
Shale-oils	68308-34-9	April 1, 1990
Silica, crystalline (airborne particles of respirable size)	—	October 1, 1988
Soots, tars, and mineral oils (untreated and mildly treated oils and used engine oils)	—	February 27, 1987
Spirodiclofen	148477-71-8	October 8, 2010
Spironolactone	52-01-7	May 1, 1997
Stanozolol	10418-03-8	May 1, 1997
Sterigmatocystin	10048-13-2	April 1, 1988
Streptozotocin (streptozocin)	18883-66-4	January 1, 1988
Strong inorganic acid mists containing sulfuric acid	—	March 14, 2003
Styrene oxide	96-09-3	October 1, 1988
Sulfallate	95-06-7	January 1, 1988
Sulfasalazine (Salicylazosulfapyridine)	599-79-1	May 15, 1998
Talc containing asbestiform fibers	—	April 1, 1990
Tamoxifen and its salts	10540-29-1	September 1, 1996
Terrazole	2593-15-9	October 1, 1994
Testosterone and its esters	58-22-0	April 1, 1988
3,3',4,4'-Tetrachloroazobenzene	14047-09-7	July 24, 2012
2,3,7,8-Tetrachlorodibenzo- <i>para</i> -dioxin (TCDD)	1746-01-6	January 1, 1988
1,1,1,2-Tetrachloroethane	630-20-6	September 13, 2013
1,1,2,2-Tetrachloroethane	79-34-5	July 1, 1990
Tetrachloroethylene (Perchloroethylene)	127-18-4	April 1, 1988
<i>p</i> -a,a,a-Tetrachlorotoluene	5216-25-1	January 1, 1990
Tetrafluoroethylene	116-14-3	May 1, 1997
Tetranitromethane	509-14-8	July 1, 1990
Thioacetamide	62-55-5	January 1, 1988
4,4'-Thiodianiline	139-65-1	April 1, 1988
Thiodicarb	59669-26-0	August 20, 1999
Thiouracil	141-90-2	June 11, 2004
Thiourea	62-56-6	January 1, 1988
Thorium dioxide	1314-20-1	February 27, 1987
Titanium dioxide (airborne, unbound particles of respirable size)	—	September 2, 2011

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
Tobacco, oral use of smokeless products	—	April 1, 1988
Tobacco smoke	—	April 1, 1988
Toluene diisocyanate	26471-62-5	October 1, 1989
ortho-Toluidine	95-53-4	January 1, 1988
ortho-Toluidine hydrochloride	636-21-5	January 1, 1988
para-Toluidine <u>Delisted October 29, 1999</u>	106-49-0	January 1, 1990
Toxaphene (Polychlorinated camphenes)	8001-35-2	January 1, 1988
Toxins derived from <i>Fusarium moniliforme</i> (<i>Fusarium verticillioides</i>)	—	August 7, 2009
Treosulfan	299-75-2	February 27, 1987
Triamterene	396-01-0	April 18, 2014
S,S,S-Tributyl phosphorotrithioate (Tribufos, DEF)	78-48-8	February 25, 2011
Trichlormethine (Trimustine hydrochloride)	817-09-4	January 1, 1992
Trichloroacetic acid	76-03-9	September 13, 2013
Trichloroethylene	79-01-6	April 1, 1988
2,4,6-Trichlorophenol	88-06-2	January 1, 1988
1,2,3-Trichloropropane	96-18-4	October 1, 1992
Trimethyl phosphate	512-56-1	May 1, 1996
2,4,5-Trimethylaniline and its strong acid salts	—	October 24, 1997
2,4,6-Trinitrotoluene (TNT)	118-96-7	December 19, 2008
Triphenyltin hydroxide	76-87-9	July 1, 1992
Tris(aziridinyl) para-benzoquinone (Triaziqunone) <u>Delisted December 8, 2006</u>	68-76-8	October 1, 1989
Tris(1-aziridinyl)phosphine sulfide (Thiotepa)	52-24-4	January 1, 1988
Tris(2-chloroethyl) phosphate	115-96-8	April 1, 1992
Tris(2,3-dibromopropyl)phosphate	126-72-7	January 1, 1988
Tris(1,3-dichloro-2-propyl) phosphate (TDCPP)	13674-87-8	October 28, 2011
Trp-P-1 (Tryptophan-P-1)	62450-06-0	April 1, 1988
Trp-P-2 (Tryptophan-P-2)	62450-07-1	April 1, 1988
Trypan blue (commercial grade)	72-57-1	October 1, 1989
Unleaded gasoline (wholly vaporized)	—	April 1, 1988
Uracil mustard	66-75-1	April 1, 1988
Urethane (Ethyl carbamate)	51-79-6	January 1, 1988
Vanadium pentoxide (orthorhombic crystalline form)	1314-62-1	February 11, 2005
Vinclozolin	50471-44-8	August 20, 1999
Vinyl bromide	593-60-2	October 1, 1988
Vinyl chloride	75-01-4	February 27, 1987
4-Vinylcyclohexene	100-40-3	May 1, 1996
4-Vinyl-1-cyclohexene diepoxide (Vinyl cyclohexene dioxide)	106-87-6	July 1, 1990
Vinyl fluoride	75-02-5	May 1, 1997
Vinyl trichloride (1,1,2-Trichloroethane)	79-00-5	October 1, 1990
Wood dust	—	December 18, 2009
2,6-Xylidine (2,6-Dimethylaniline)	87-62-7	January 1, 1991
Zalcitabine	7481-89-2	August 7, 2009
Zidovudine (AZT)	30516-87-1	December 18, 2009
Zileuton	111406-87-2	December 22, 2000
Zineb <u>Delisted October 29, 1999</u>	12122-67-7	January 1, 1990

CHEMICALS KNOWN TO THE STATE TO CAUSE REPRODUCTIVE TOXICITY

<i>Chemical</i>	<i>Type of Reproductive Toxicity</i>	<i>CAS No.</i>	<i>Date Listed</i>
Acetazolamide	developmental	59-66-5	August 20, 1999
Acetohydroxamic acid	developmental	546-88-3	April 1, 1990
Acrylamide	developmental, male	79-06-1	February 25, 2011
Actinomycin D	developmental	50-76-0	October 1, 1992
All-trans retinoic acid	developmental	302-79-4	January 1, 1989
Alprazolam	developmental	28981-97-7	July 1, 1990
Altretamine	developmental, male	645-05-6	August 20, 1999
Amantadine hydrochloride	developmental	665-66-7	February 27, 2001
Amikacin sulfate	developmental	39831-55-5	July 1, 1990
Aminoglutethimide	developmental	125-84-8	July 1, 1990
tert-Amyl methyl ether	developmental	994-05-8	December 18, 2009
<u>Delisted December 13, 2013</u>			
Aminoglycosides	developmental	—	October 1, 1992
Aminopterin	developmental, female	54-62-6	July 1, 1987
Amiodarone hydrochloride	developmental, female, male	19774-82-4	August 26, 1997
Amitraz	developmental	33089-61-1	March 30, 1999
Amoxapine	developmental	14028-44-5	May 15, 1998
Anabolic steroids	female, male	—	April 1, 1990
Angiotensin converting enzyme (ACE) inhibitors	developmental	—	October 1, 1992
Anisindione	developmental	117-37-3	October 1, 1992
Arsenic (inorganic oxides)	developmental	—	May 1, 1997
Aspirin (NOTE: It is especially important not to use aspirin during the last three months of pregnancy, unless specifically directed to do so by a physician because it may cause problems in the unborn child or complications during delivery.)	developmental, female	50-78-2	July 1, 1990
Atenolol	developmental	29122-68-7	August 26, 1997
Auranofin	developmental	34031-32-8	January 29, 1999
Avermectin B1 (Abamectin)	developmental	71751-41-2	December 3, 2010
Azathioprine	developmental	446-86-6	September 1, 1996
Barbiturates	developmental	—	October 1, 1992
Beclomethasone dipropionate	developmental	5534-09-8	May 15, 1998
Benomyl	developmental, male	17804-35-2	July 1, 1991
Benzene	developmental, male	71-43-2	December 26, 1997
Benzodiazepines	developmental	—	October 1, 1992
Benzphetamine hydrochloride	developmental	5411-22-3	April 1, 1990
Bischloroethyl nitrosourea (BCNU) (Carmustine)	developmental	154-93-8	July 1, 1990
Bisphenol A (BPA)	developmental	80-05-7	April 11, 2013
<u>Delisted April 19, 2013</u>			
Bromacil lithium salt	developmental male	53404-19-6	May 18, 1999 January 17, 2003
1-Bromopropane	developmental, female, male	106-94-5	December 7, 2004
2-Bromopropane	female, male	75-26-3	May 31, 2005
Bromoxynil	developmental	1689-84-5	October 1, 1990
Bromoxynil octanoate	developmental	1689-99-2	May 18, 1999

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<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Butabarbital sodium	developmental	143-81-7	October 1, 1992
1,3-Butadiene	developmental, female, male	106-99-0	April 16, 2004
1,4-Butanediol dimethane-sulfonate (Busulfan)	developmental	55-98-1	January 1, 1989
Butyl benzyl phthalate (BBP)	developmental	85-68-7	December 2, 2005
n-Butyl glycidyl ether <u>Delisted April 4, 2014</u>	male	2426-08-6	August 7, 2009
Cadmium	developmental, male	—	May 1, 1997
Carbamazepine	developmental	298-46-4	January 29, 1999
Carbaryl	developmental, female, male	63-25-2	August 7, 2009
Carbon disulfide	developmental, female, male	75-15-0	July 1, 1989
Carbon monoxide	developmental	630-08-0	July 1, 1989
Carboplatin	developmental	41575-94-4	July 1, 1990
Chenodiol	developmental	474-25-9	April 1, 1990
Chlorambucil	developmental	305-03-3	January 1, 1989
Chlorcyclizine hydrochloride	developmental	1620-21-9	July 1, 1987
Chlordecone (Kepone)	developmental	143-50-0	January 1, 1989
Chlordiazepoxide	developmental	58-25-3	January 1, 1992
Chlordiazepoxide hydrochloride	developmental	438-41-5	January 1, 1992
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	developmental	13010-47-4	July 1, 1990
Chloroform	developmental	67-66-3	August 7, 2009
2-Chloropropionic acid	male	598-78-7	August 7, 2009
Chlorsulfuron <u>Delisted June 6, 2014</u>	developmental, female, male	64902-72-3	May 14, 1999
Chromium (hexavalent compounds)	developmental, female, male	—	December 19, 2008
Cidofovir	developmental, female, male	113852-37-2	January 29, 1999
Cladribine	developmental	4291-63-8	September 1, 1996
Clarithromycin	developmental	81103-11-9	May 1, 1997
Clobetasol propionate	developmental, female	25122-46-7	May 15, 1998
Clomiphene citrate	developmental	50-41-9	April 1, 1990
Clorazepate dipotassium	developmental	57109-90-7	October 1, 1992
Cocaine	developmental, female	50-36-2	July 1, 1989
Codeine phosphate	developmental	52-28-8	May 15, 1998
Colchicine	developmental, male	64-86-8	October 1, 1992
Conjugated estrogens	developmental	—	April 1, 1990
Cyanazine	developmental	21725-46-2	April 1, 1990
Cycloate	developmental	1134-23-2	March 19, 1999
Cyclohexanol <u>Delisted January 25, 2002</u>	male	108-93-0	November 6, 1998
Cycloheximide	developmental	66-81-9	January 1, 1989
Cyclophosphamide (anhydrous)	developmental, female, male	50-18-0	January 1, 1989
Cyclophosphamide (hydrated)	developmental, female, male	6055-19-2	January 1, 1989
Cyhexatin	developmental	13121-70-5	January 1, 1989
Cytarabine	developmental	147-94-4	January 1, 1989
Dacarbazine	developmental	4342-03-4	January 29, 1989
Danazol	developmental	17230-88-5	April 1, 1990
Daunorubicin hydrochloride	developmental	23541-50-6	July 1, 1990
2,4-D butyric acid	developmental, male	94-82-6	June 18, 1999
o,p' -DDT	developmental, female, male	789-02-6	May 15, 1998

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
p,p' -DDT	developmental, female, male	50-29-3	May 15, 1998
2,4DP (dichloroprop)	developmental	120-36-5	April 27, 1999
<u>Delisted January 25, 2002</u>			
Demeclocycline hydrochloride (internal use)	developmental	64-73-3	January 1, 1992
Diazepam	developmental	439-14-5	January 1, 1992
Diazoxide	developmental	364-98-7	February 27, 2001
1,2-Dibromo-3-chloropropane (DBCP)	male	96-12-8	February 27, 1987
Di-n-butyl phthalate (DBP)	developmental, female, male	84-74-2	December 2, 2005
Dichloroacetic acid	developmental, male	79-43-6	August 7, 2009
1,1-Dichloro-2,2-bis(p-chlorophenyl) ethylene (DDE)	developmental, male	72-55-9	March 30, 2010
Dichlorophene	developmental	97-23-4	April 27, 1999
Dichlorophenamide	developmental	120-97-8	February 27, 2001
Diclofop methyl	developmental	51338-27-3	March 5, 1999
Dicumarol	developmental	66-76-2	October 1, 1992
Di(2-ethylhexyl)phthalate (DEHP)	developmental, male	117-81-7	October 24, 2003
Diethylstilbestrol (DES)	developmental	56-53-1	July 1, 1987
Diflunisal	developmental, female	22494-42-4	January 29, 1999
Diglycidylether	male	2238-07-5	August 7, 2009
<u>Delisted April 4, 2014</u>			
Di-n-hexyl phthalate (DnHP)	female, male	84-75-3	December 2, 2005
Dihydroergotamine mesylate	developmental	6190-39-2	May 1, 1997
Di-isodecyl phthalate (DIDP)	developmental	68515-49-1/ 26761-40-0	April 20, 2007
Diltiazem hydrochloride	developmental	33286-22-5	February 27, 2001
N,N-Dimethylacetamide	developmental, male	127-19-5	May 21, 2010
m-Dinitrobenzene	male	99-65-0	July 1, 1990
o-Dinitrobenzene	male	528-29-0	July 1, 1990
p-Dinitrobenzene	male	100-25-4	July 1, 1990
2,4-Dinitrotoluene	male	121-14-2	August 20, 1999
2,6-Dinitrotoluene	male	606-20-2	August 20, 1999
Dinitrotoluene (technical grade)	female, male	—	August 20, 1999
Dinocap	developmental	39300-45-3	April 1, 1990
Dinoseb	developmental, male	88-85-7	January 1, 1989
Diphenylhydantoin (Phenytoin)	developmental	57-41-0	July 1, 1987
Disodium cyanodithioimidocarbonate	developmental	138-93-2	March 30, 1999
Doxorubicin hydrochloride (Adriamycin)	developmental, male	25316-40-9	January 29, 1999
Doxycycline (internal use)	developmental	564-25-0	July 1, 1990
Doxycycline calcium (internal use)	developmental	94088-85-4	January 1, 1992
Doxycycline hyclate (internal use)	developmental	24390-14-5	October 1, 1991
Doxycycline monohydrate (internal use)	developmental	17086-28-1	October 1, 1991
Endrin	developmental	72-20-8	May 15, 1998
Environmental tobacco smoke (ETS)	developmental	—	June 9, 2006
Epichlorohydrin	male	106-89-8	September 1, 1996
Ergotamine tartrate	developmental	379-79-3	April 1, 1990
Estropipate	developmental	7280-37-7	August 26, 1997
Ethionamide	developmental	536-33-4	August 26, 1997

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Ethyl alcohol in alcoholic beverages	developmental	—	October 1, 1987
Ethyl-tert-butyl ether	male	637-92-3	December 18, 2009
<u>Delisted December 13, 2013</u>			
Ethyl dipropylthiocarbamate	developmental	759-94-4	April 27, 1999
Ethylene dibromide	developmental, male	106-93-4	May 15, 1998
Ethylene glycol monoethyl ether	developmental, male	110-80-5	January 1, 1989
Ethylene glycol monomethyl ether	developmental, male	109-86-4	January 1, 1989
Ethylene glycol monoethyl ether acetate	developmental, male	111-15-9	January 1, 1993
Ethylene glycol monomethyl ether acetate	developmental, male	110-49-6	January 1, 1993
Ethylene oxide	female	75-21-8	February 27, 1987
	developmental, male		August 7, 2009
Ethylene thiourea	developmental	96-45-7	January 1, 1993
2-Ethylhexanoic acid	developmental	149-57-5	August 7, 2009
<u>Delisted December 13, 2013</u>			
Etodolac	developmental, female	41340-25-4	August 20, 1999
Etoposide	developmental	33419-42-0	July 1, 1990
Etretinate	developmental	54350-48-0	July 1, 1987
Fenoxaprop ethyl	developmental	66441-23-4	March 26, 1999
Filgrastim	developmental	121181-53-1	February 27, 2001
Fluazifop butyl	developmental	69806-50-4	November 6, 1998
Flunisolide	developmental, female	3385-03-3	May 15, 1998
Fluorouracil	developmental	51-21-8	January 1, 1989
Fluoxymesterone	developmental	76-43-7	April 1, 1998
Flurazepam hydrochloride	developmental	1172-18-5	October 1, 1992
Flurbiprofen	developmental, female	5104-49-4	August 20, 1999
Flutamide	developmental	13311-84-7	July 1, 1990
Fluticasone propionate	developmental	80474-14-2	May 15, 1998
Fluvalinate	developmental	69409-94-5	November 6, 1998
Ganciclovir	developmental, male	82410-32-0	August 26, 1997
Ganciclovir sodium	developmental, male	107910-75-8	August 26, 1997
Gemfibrozil	female, male	25812-30-0	August 20, 1999
Goserelin acetate	developmental, female, male	65807-02-5	August 26, 1997
Halazepam	developmental	23092-17-3	July 1, 1990
Halobetasol propionate	developmental	66852-54-8	August 20, 1999
Haloperidol	developmental, female	52-86-8	January 29, 1999
Halothane	developmental	151-67-7	September 1, 1996
Heptachlor	developmental	76-44-8	August 20, 1999
Hexachlorobenzene	developmental	118-74-1	January 1, 1989
Hexafluoroacetone	<u>developmental</u> , male	684-16-2	August 1, 2008
Hexamethylphosphoramide	male	680-31-9	October 1, 1994
Histrelin acetate	developmental	—	May 15, 1998
Hydramethylnon	developmental, male	67485-29-4	March 5, 1999
Hydrogen cyanide (HCN) and cyanide salts (CN salts)	male		July 5, 2013
Hydroxyurea	developmental	127-07-1	May 1, 1997
Idarubicin hydrochloride	developmental, male	57852-57-0	August 20, 1999
Ifosfamide	developmental	3778-73-2	July 1, 1990
Iodine-131	developmental	10043-66-0	January 1, 1989

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Isotretinoin	developmental	4759-48-2	July 1, 1987
Lead	developmental, female, male	—	February 27, 1987
Leuprolide acetate	developmental, female, male	74381-53-6	August 26, 1997
Levodopa	developmental	59-92-7	January 29, 1999
Levonorgestrel implants	female	797-63-7	May 15, 1998
Linuron	developmental	330-55-2	March 19, 1999
Lithium carbonate	developmental	554-13-2	January 1, 1991
Lithium citrate	developmental	919-16-4	January 1, 1991
Lorazepam	developmental	846-49-1	July 1, 1990
Lovastatin	developmental	75330-75-5	October 1, 1992
Mebendazole	developmental	31431-39-7	August 20, 1999
Medroxyprogesterone acetate	developmental	71-58-9	April 1, 1990
Megestrol acetate	developmental	595-33-5	January 1, 1991
Melphalan	developmental	148-82-3	July 1, 1990
Menotropins	developmental	9002-68-0	April 1, 1990
Meprobamate	developmental	57-53-4	January 1, 1992
Mercaptopurine	developmental	6112-76-1	July 1, 1990
Mercury and mercury compounds	developmental	—	July 1, 1990
Methacycline hydrochloride	developmental	3963-95-9	January 1, 1991
Metham sodium	developmental	137-42-8	May 15, 1998
Methanol	developmental	67-56-1	March 16, 2012
Methazole	developmental	20354-26-1	December 1, 1999
Methimazole	developmental	60-56-0	July 1, 1990
Methotrexate	developmental	59-05-2	January 1, 1989
Methotrexate sodium	developmental	15475-56-6	April 1, 1990
Methyl bromide as a structural fumigant	developmental	74-83-9	January 1, 1993
Methyl n-butyl ketone	male	591-78-6	August 7, 2009
Methyl chloride	developmental	74-87-3	March 10, 2000
	male		August 7, 2009
Methyl isobutyl ketone (MIBK)	developmental	108-10-1	March 28, 2014
Methyl isocyanate (MIC)	developmental, female	624-83-9	November 12, 2010
Methyl isopropyl ketone	developmental	563-80-4	February 17, 2012
<u>Delisted April 4, 2014</u>			
Methyl mercury	developmental	—	July 1, 1987
N-Methylpyrrolidone	developmental	872-50-4	June 15, 2001
α -Methylstyrene	female	98-83-9	July 29, 2011
<u>Delisted April 4, 2014</u>			
Methyltestosterone	developmental	58-18-4	April 1, 1990
Metiram	developmental	9006-42-2	March 30, 1999
Midazolam hydrochloride	developmental	59467-96-8	July 1, 1990
Minocycline hydrochloride (internal use)	developmental	13614-98-7	January 1, 1992
Misoprostol	developmental	59122-46-2	April 1, 1990
Mitoxantrone hydrochloride	developmental	70476-82-3	July 1, 1990
Molinate	developmental, female, male	2212-67-1	December 11, 2009
Myclobutanil	developmental, male	88671-89-0	April 16, 1999
Nabam	developmental	142-59-6	March 30, 1999
Nafarelin acetate	developmental	86220-42-0	April 1, 1990
Neomycin sulfate (internal use)	developmental	1405-10-3	October 1, 1992
Netilmicin sulfate	developmental	56391-57-2	July 1, 1990

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Nickel carbonyl	developmental	13463-39-3	September 1, 1996
Nicotine	developmental	54-11-5	April 1, 1990
Nifedipine	developmental, female, male	21829-25-4	January 29, 1999
Nimodipine	developmental	66085-59-4	April 24, 2001
Nitrapyrin	developmental	1929-82-4	March 30, 1999
Nitrobenzene	male	98-95-3	March 30, 2010
Nitrofurantoin	male	67-20-9	April 1, 1991
Nitrogen mustard (Mechlorethamine)	developmental	51-75-2	January 1, 1989
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	developmental	55-86-7	July 1, 1990
Nitrous oxide	developmental, female	10024-97-2	August 1, 2008
Norethisterone (Norethindrone)	developmental	68-22-4	April 1, 1990
Norethisterone acetate (Norethindrone acetate)	developmental	51-98-9	October 1, 1991
Norethisterone (Norethindrone) /Ethinyl estradiol	developmental	68-22-4/ 57-63-6	April 1, 1990
Norethisterone (Norethindrone)/Mestranol	developmental	68-22-4/ 72-33-3	April 1, 1990
Norgestrel	developmental	6533-00-2	April 1, 1990
Oxadiazon	developmental	19666-30-9	May 15, 1998
Oxazepam	developmental	604-75-1	October 1, 1992
p,p'-Oxybis(benzenesulfonylhydrazide) <u>Delisted December 13, 2013</u>	developmental	80-51-3	August 7, 2009
Oxydemeton methyl	female, male	301-12-2	November 6, 1998
Oxymetholone	developmental	434-07-1	May 1, 1997
Oxytetracycline (internal use)	developmental	79-57-2	January 1, 1991
Oxytetracycline hydrochloride (internal use)	developmental	2058-46-0	October 1, 1991
Oxythioquinox (Chinomethionat)	developmental	2439-01-2	November 6, 1998
Paclitaxel	developmental, female, male	33069-62-4	August 26, 1997
Paramethadione	developmental	115-67-3	July 1, 1990
Penicillamine	developmental	52-67-5	January 1, 1991
Pentobarbital sodium	developmental	57-33-0	July 1, 1990
Pentostatin	developmental	53910-25-1	September 1, 1996
Phenacemide	developmental	63-98-9	July 1, 1990
Phenprocoumon	developmental	435-97-2	October 1, 1992
Phenyl glycidyl ether <u>Delisted April 4, 2014</u>	male	122-60-1	August 7, 2009
Phenylphosphine	developmental male	638-21-1	August 7, 2009
Pimozide	developmental, female	2062-78-4	August 20, 1999
Pipobroman	developmental	54-91-1	July 1, 1990
Plicamycin	developmental	18378-89-7	April 1, 1990
Polybrominated biphenyls	developmental	—	October 1, 1994
Polychlorinated biphenyls	developmental	—	January 1, 1991
Potassium dimethyldithiocarbamate	developmental	128-03-0	March 30, 1999
Pravastatin sodium	developmental	81131-70-6	March 3, 2000
Prednisolone sodium phosphate	developmental	125-02-0	August 20, 1999
Procarbazine hydrochloride	developmental	366-70-1	July 1, 1990

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<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Propargite	developmental	2312-35-8	June 15, 1999
Propylthiouracil	developmental	51-52-5	July 1, 1990
Pyrimethamine	developmental	58-14-0	January 29, 1999
Quazepam	developmental	36735-22-5	August 26, 1997
Quizalofop-ethyl	male	76578-14-8	December 24, 1999
Resmethrin	developmental	10453-86-8	November 6, 1998
Retinol/retinyl esters, when in daily dosages in excess of 10,000 IU, or 3,000 retinol equivalents. (NOTE: Retinol/retinyl esters are required and essential for maintenance of normal reproductive function. The recommended daily level during pregnancy is 8,000 IU.)	developmental	—	July 1, 1989
Ribavirin	developmental male	36791-04-5 36791-04-5	April 1, 1990 February 27, 2001
Rifampin	developmental, female	13292-46-1	February 27, 2001
Secobarbital sodium	developmental	309-43-3	October 1, 1992
Sermorelin acetate	developmental	—	August 20, 1999
Sodium dimethyldithiocarbamate	developmental	128-04-1	March 30, 1999
Sodium fluoroacetate	male	62-74-8	November 6, 1998
Streptomycin sulfate	developmental	3810-74-0	January 1, 1991
Streptozocin (streptozotocin)	developmental, female, male	18883-66-4	August 20, 1999
Sulfasalazine (Salicylazosulfapyridine)	male	599-79-1	January 29, 1999
Sulfur dioxide	developmental	7446-09-5	July 29, 2011
Sulindac	developmental, female	38194-50-2	January 29, 1999
Tamoxifen citrate	developmental	54965-24-1	July 1, 1990
Temazepam	developmental	846-50-4	April 1, 1990
Teniposide	developmental	29767-20-2	September 1, 1996
Terbacil	developmental	5902-51-2	May 18, 1999
Testosterone cypionate	developmental	58-20-8	October 1, 1991
Testosterone enanthate	developmental	315-37-7	April 1, 1990
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	developmental	1746-01-6	April 1, 1991
Tetracycline (internal use)	developmental	60-54-8	October 1, 1991
Tetracyclines (internal use)	developmental	—	October 1, 1992
Tetracycline hydrochloride (internal use)	developmental	64-75-5	January 1, 1991
Thalidomide	developmental	50-35-1	July 1, 1987
Thioguanine	developmental	154-42-7	July 1, 1990
Thiophanate methyl	female, male	23564-05-8	May 18, 1999
Tobacco smoke (primary)	developmental, female, male	—	April 1, 1988
Tobramycin sulfate	developmental	49842-07-1	July 1, 1990
Toluene	developmental female	108-88-3	January 1, 1991 August 7, 2009
Triadimefon	developmental, female, male	43121-43-3	March 30, 1999
Triazolam	developmental	28911-01-5	April 1, 1990
Tributyltin methacrylate	developmental	2155-70-6	December 1, 1999
Trichloroethylene	developmental, male	79-01-6	January 31, 2014
Trientine hydrochloride	developmental	38260-01-4	February 27, 2001

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Triforine	developmental	26644-46-2	June 18, 1999
1,3,5-Triglycidyl-s-triazinetriene	male	2451-62-9	August 7, 2009
<u>Delisted December 13, 2013</u>			
Trilostane	developmental	13647-35-3	April 1, 1990
Trimethadione	developmental	127-48-0	January 1, 1991
Trimetrexate glucuronate	developmental	82952-64-5	August 26, 1997
Triphenyltin hydroxide	developmental	76-87-9	March 18, 2002
Uracil mustard	developmental, female, male	66-75-1	January 1, 199
Urethane	developmental	51-79-6	October 1, 1994
Urofollitropin	developmental	97048-13-0	April 1, 1990
Valproate (Valproic acid)	developmental	99-66-1	July 1, 1987
Vinblastine sulfate	developmental	143-67-9	July 1, 1990
Vinclozolin	developmental	50471-44-8	May 15, 1998
Vincristine sulfate	developmental	2068-78-2	July 1, 1990
4-Vinylcyclohexene	female, male	100-40-03	August 7, 2009
Vinyl cyclohexene dioxide	female, male	106-87-6	August 1, 2008
(4-Vinyl-1-cyclohexene diepoxide)			
Warfarin	developmental	81-81-2	July 1, 1987
Zileuton	developmental, female	111406-87-2	December 22, 2000

Date: March 27, 2015

<p>RULEMAKING PETITION DECISIONS</p>

DEPARTMENT OF MANAGED HEALTH CARE

DATE: March 11, 2015

ACTION: Notice of Decision on Petition for Rulemaking Action

SUBJECT: Petition by the California Association of Physician Groups requesting amendment or repeal of subdivision (a)(3)(B) of Title 28, section 1300.71.

PETITIONER

The California Association of Physician Groups' (CAPG or Petitioner) petition for rulemaking action (Petition) was received by the Department of Managed Health Care (Department) on August 12, 2014. On September 3, 2014, CAPG provided the Department with an extension of time until March 11, 2015, to respond to the Petition. Pursuant to the requirements of Govern-

ment Code section 11340.7, the Department issues this Decision on the CAPG Petition.

CONTACT PERSON

Inquiries concerning this decision may be directed to Emilie Alvarez, Regulations Coordinator, Department of Managed Health Care, Office of Legal Services, by mail at: 980 9th Street, Suite 500, Sacramento, CA 95814, by telephone at: (916) 322-6727, or by e-mail at: ealvarez@dmhc.ca.gov or regulations@dmhc.ca.gov.

AVAILABILITY OF PETITION

The Petition for rulemaking action is available upon request directed to the Department's Contact Person listed above.

AUTHORITY

Under authority established in the Knox-Keene Health Care Service Plan Act of 1975 (the Act)¹, including but not limited to Health and Safety Code sections 1343, 1344 and 1346, the Department may adopt,

¹ See Health and Safety Code section 1340 *et seq.* and California Code of Regulations, title 28.

amend and rescind regulations as necessary to carry out the provisions of the Act.

SUMMARY OF THE PETITION

The action requested by the Petitioner specifically concerns the considerations relevant to the reasonable and customary value of services performed by non-contracted providers, which are detailed in title 28, section 1300.71, subdivision (a)(3)(B), and are known as the “Gould factors.”² The Petitioner requests that the Department amend or repeal section 1300.71, subdivision (a)(3)(B) for the following reasons:

1. Recent court decisions demonstrating that the “reasonable value” of health care services is the only legal issue to be resolved between payors and non-contracted providers; and,
2. The regulation violates the consistency standard under the Administrative Procedure Act (APA) based on recent court decisions.

The Petition requests two alternative rulemaking actions:

1. Repeal subdivision (a)(3)(B) of section 1300.71; or,
2. Amend subdivision (a)(3)(B) of section 1300.71 to include the following two new factors:
 - a. The average contract rates for the service of payors and providers in the general geographic area in which the service was provided; and,
 - b. The average amount for the service paid to and accepted by non-contracted providers in the general geographic area in which the service was provided, including payments made by both commercial and government payors (e.g., Medicare and Medi-Cal Programs).

In justification of its request, the Petition states that adding the above-stated factors to the six *Gould* factors currently in the regulation “will make the Regulation consistent with prevailing law, and will provide appropriate guidance to payors, providers, and dispute resolvers in this area.”

The Petition also cites recent legal developments as a reason for amending the current version of the regulation:

² *Gould v. Workers’ Compensation Appeals Board, City of Los Angeles (Gould)* (1992) 4 Cal.App.4th 1059, 1071.

“[A]s a result of legal developments since the Regulation was adopted, its importance in California’s delegated model has grown significantly, while its intrinsic limitations have become more manifest. Since the Regulation was adopted, the courts decided the *Bell*, *Prospect* and *Children’s Hospital Central California*³ cases and the Workers Compensation Appeals Board has had the opportunity to apply the *Gould* case itself.

...

Unfortunately, the plain meaning of the language employed in *Gould* does not clearly signal the way the factors are to be employed in a non-fee schedule environment. As the application in the *Kunz*⁴ case shows, and as the court explicitly held in *Children Hospital*, the factors, although facially limited to charges, should include customary payment data when the services at issue have no applicable fee schedule amount. Because the regulation itself does not indicate its context, the *Gould* language should be revised so that it will be applied in a manner consistent with common law *quantum meruit* principles, i.e., include within its scope factors relating to prevailing payments as well as billed charges.”

Finally, the Petition states that the regulation fails to meet the consistency requirement under the APA. The Petition states:

“The APA requires that regulations adopted by state agencies must be consistent with law. See Gov. Code § 11349.1. ‘Consistency’ means being ‘in harmony with, and not in conflict with or contradictory to existing statutes, court decisions, or other provisions of law.’ Gov. Code § 11349(d). For the reasons set forth above, the Regulation conflicts with existing court decisions governing the measure of quantum meruit claims. Accordingly, the Regulation violates the consistency standard for regulations under the APA and should be amended to conform to applicable law.”

³ *Bell v. Blue Cross of California* (2005), 131 Cal.App.4th 211, hereafter “*Bell*”; *Prospect Medical Group v. Northridge Emergency Medical Group* (2009), 45 Cal.4th 497, hereafter “*Prospect*”; and *Children’s Hospital of Central California v. Anthem Blue Cross* (2014), 226 Cal.App.4th 1260, hereafter “*Children’s Hospital*”.

⁴ *Kunz v. Patterson Floor Coverings, Inc., et al.*, 67 Cal.Comp.Cas. 1588 (en banc 2002).

DEPARTMENT DETERMINATION

Section 1300.71,⁵ subdivision (a)(3)(B), which defines “reimbursement of claim,”⁶ was adopted by the Department pursuant to the APA and approved by the Office of Administrative Law (OAL) on July 24, 2003.

The “legal developments” cited by the Petitioner do not require the Department to initiate rulemaking to amend or repeal subdivision (a)(3)(B). The holdings in *Bell* (2005) and *Prospect* (2009) do not address the validity of factors used in determining reasonable payments for non-contracted providers, the subject matter of subdivision (a)(3)(B). The *Children’s Hospital* case held that in determining *quantum meruit* cases the courts should consider a wide variety of evidence, including evidence of “agreements to pay and accept a particular price.”⁷

However, the *Children’s Hospital* decision does not in and of itself invalidate the Department’s current regulation or require that the regulation be amended. To the contrary, the Department’s current regulation contains a non-exhaustive list of factors that should be “take[n] into consideration.” This is not an exclusive list. If applicable, other factors, such as those considered under

⁵ California Code of Regulations (CCR), title 28, section 1300.71, detailing claims settlement practices and rules between payors and contracted and non-contracted providers.

⁶ See 28 CCR, section 1300.71(a)(3), which reads in part:

(3) Reimbursement of a Claim means:

(A) For contracted providers with a written contract, including in-network point-of-service (POS) and preferred provider organizations (PPO): the agreed upon contract rate;

(B) For contracted providers without a written contract and non-contracted providers, except those providing services described in paragraph (C) below: the payment of the reasonable and customary value for the health care services rendered based upon statistically credible information that is updated at least annually and takes into consideration:

(i) the provider’s training, qualifications, and length of time in practice;

(ii) the nature of the services provided;

(iii) the fees usually charged by the provider;

(iv) prevailing provider rates charged in the general geographic area in which the services were rendered;

(v) other aspects of the economics of the medical provider’s practice that are relevant; and (vi) any unusual circumstances in the case; and

(C) For non-emergency services provided by non-contracted providers to PPO and POS enrollees: the amount set forth in the enrollee’s Evidence of Coverage.

⁷ *Children’s Hospital* at p. 1274.

the common law theory of *quantum meruit*, may be appropriately applied when determining the reasonable and customary rate. The *Children’s Hospital* court clearly acknowledges this when it states that “while the *Gould* court set forth a comprehensive set of factors, for the situation presented there, those factors are not exclusive or necessarily appropriate in all cases.”⁸ The *Children’s Hospital* court decision even notes that the Department acknowledged this fact in response to public comments during the rulemaking process for Section 1300.71: “[t]he [Department] . . . noted that ‘the regulations are intended to set forth *the minimum* payment criteria to ensure compliance with the Act’s claims payment and dispute resolution standards’ (italics added), and that, to the extent providers wish to pursue other common law or statutory remedies, they may seek redress in the courts.”⁹

For the reasons stated above, the Department declines to initiate rulemaking to amend or repeal section 1300.71, subdivision (a)(3)(B) based on legal developments since the regulation was promulgated.

The Department further declines to amend or repeal section 1300.71, subdivision (a)(3)(B) on the grounds that it does not meet the consistency standard under the APA. As shown, the regulation is consistent with current law. The OAL conducted a review of the regulation and made a determination concerning the consistency of section 1300.71 with existing statutes, court decisions and other provisions of law when it reviewed the rulemaking file and issued an approval in 2003. As discussed above, the existing regulation is not inconsistent with current law, including recent case law.

CONCLUSION

For the reasons set forth above, the Department has determined that it will not initiate a rulemaking action to amend or repeal section 1300.71(a)(3)(B).

The Petitioner should note that the Department is currently in the process of obtaining information from its stakeholders regarding reasonable and customary values of payment for services received by providers. The request for information was sent out on February 13, 2015, and responses are due by March 16, 2015.

The Department appreciates the Petitioner’s interest in the Department’s rulemaking process.

⁸ *Id.*

⁹ *Id.* at p. 1273.

**OAL REGULATORY
DETERMINATION**

**OFFICE OF ADMINISTRATIVE LAW
DETERMINATION OF ALLEGED
UNDERGROUND REGULATION
(Summary Disposition)**

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

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

**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**

Date: March 13, 2015
 To: Andres Medina
 From: Chapter Two Compliance Unit
 Subject: **2015 OAL DETERMINATION
NO. 3(S)
(CTU2015-0115-01)**
 (Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation Kern Valley State Prison Protocol for Shift Change, a memorandum dated October 18, 2014.

On January 15, 2015, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether the Kern Valley State Prison’s Protocol for Shift Change constitutes an underground regulation. The rule is in a memorandum dated October 18, 2014. This Kern Valley State Prison Protocol for Shift Change was issued by Kern Valley State Prison.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant

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

to the Administrative Procedure Act (APA).² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

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

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

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

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

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

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

...

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

Similarly, the rule challenged by your petition was issued by Kern Valley State Prison and applies solely to the inmates of Kern Valley State Prison. Inmates housed at other institutions are governed by those other institutions’ protocols for procedures to be followed during

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

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

shift changes. Therefore, the rule is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.³

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

/s/

Debra M. Cornez
Director

/s/

Elizabeth A. Heidig
Senior Attorney

Copy:

Dr. Jeffrey Beard
Tim Lockwood

DISAPPROVAL DECISION

DECISION OF DISAPPROVAL OF
REGULATORY ACTION

Printed below is the summary of an Office of Administrative Law disapproval decision. The full text of the disapproval decision is available at 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 CHIROPRACTIC
EXAMINERS**

State of California Office of Administrative Law

In re: Board of Chiropractic Examiners

**Regulatory Action: Title 16
California Code of Regulations**

Adopt sections: 309, 309.1, 309.2, 309.3, 309.4

SUMMARY OF REGULATORY ACTION

This rulemaking action by the Board of Chiropractic Examiners (the “Board”) proposes to adopt sections 309, 309.1, 309.2, 309.3, and 309.4 in title 16 of the California Code of Regulations (“CCR”). Specifically, proposed regulations would implement, interpret, and make specific the provisions of Business and Professions Code section 901 as it pertains to licensed doctors of chiropractic. This includes the application and registration requirements, disciplinary actions, recordkeeping requirements, and provisions for terminating the exemption of an out-of-state licensed doctor of chiropractic who wishes to participate in a sponsored free health care event. Lastly, the Board proposes to incorporate two forms by reference through this rulemaking action.

On January 21, 2015, the Board submitted the above-referenced rulemaking action to the Office of Administrative Law (“OAL”) for review. On March 5, 2015, OAL notified the Board of OAL’s decision to disapprove the proposed rulemaking. This Decision of Disapproval of Regulatory Action explains the reasons for OAL’s action.

DECISION

OAL disapproved the above-referenced rulemaking action for the following reasons: the proposed regula-

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

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

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

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

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

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

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

[Emphasis added.]

tions failed to comply with the clarity standard of Government Code section 11349.1; the proposed regulations failed to comply with the necessity standard of Government Code section 11349.1; and the agency failed to follow required Administrative Procedure Act (“APA”) procedures.

All APA issues must be resolved prior to OAL’s approval of any resubmission.

CONCLUSION

OAL disapproved the above-referenced rulemaking action for the foregoing reasons. Pursuant to Government Code section 11349.4, subdivision (a), the Board may resubmit revised regulations within 120 days of its receipt of this Decision of Disapproval. If you have any questions, please contact me at (916) 324-6948.

Date: March 12, 2015

Steven J. Escobar
Attorney
For: DEBRA M. CORNEZ
Director

Original: Robert Puleo
Copy: Dixie Van Allen

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# 2015-0306-02
BOARD OF STATE AND COMMUNITY CORRECTIONS
Local Youthful Offender Rehabilitative Facilities Construction Financing Program

The Board of State and Community Corrections (Board) submitted this emergency readoption action to keep in effect the comprehensive amendments made to

their Local Youthful Offender Rehabilitative Facility Construction Financing Program in OAL file no. 2014-0804-01E. The emergency action updated regulations for the 2007 program to conform to recent statutory changes to allow currently approved projects to continue in compliance with statute and to allow the Board to commence with a second round of proposals for projects.

Title 15
California Code of Regulations
ADOPT: 1830.1, 1840.1, 1847.1, 1848.5, 1849.1, 1850.1 AMEND: 1800, 1806, 1812, 1814, 1830, 1831, 1840, 1847, 1848, 1849, 1850, 1851 1852, 1853, 1854, 1856, 1860, 1866, 1867, 1868, 1870, 1872, 1876, 1878, 1888, 1890, 1892 REPEAL: 1857
Filed 03/16/2015
Effective 03/18/2015
Agency Contact: Ginger Wolfe (916) 341-7325

File# 2015-0204-01
CALIFORNIA ARCHITECTS BOARD
Fees

This action by the California Architects Board/Landscape Architects Technical Committee (LATC), amends Title 16, California Code of Regulations, section 2649, relating to fees for landscape architect applicants. In order to comply with Business and Professions Code section 128.5, LATC approved a temporary license renewal fee reduction for licenses expiring on or after July 1, 2015, from \$400.00 to \$220.00. The \$400.00 renewal fee is reinstated for licenses expiring on or after July 1, 2017. The rulemaking also removes outdated references to fees.

Title 16
California Code of Regulations
AMEND: 2649
Filed 03/18/2015
Effective 07/01/2015
Agency Contact: Trish Rodriguez (916) 575-7230

File# 2015-0303-04
CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
Net Zero/TCAC Miscellaneous

This action amends the conditions and standards for issuing favorable bonds to fund private projects with public value, such as low-income housing. This action amends the following: (1) energy efficiency standards for buildings in bond-financed construction projects; (2) points awarded to bond applicants for meeting amended targeted energy efficiency standards; and (3) forms to implement the amended energy efficiency standards.

Title 4
 California Code of Regulations
 AMEND: 5205, 5230
 Filed 03/13/2015
 Effective 03/13/2015
 Agency Contact: Brian Clark (916) 653-8183

File# 2015-0305-02
CALIFORNIA ENERGY COMMISSION
 Modification to ARFVTP Funding Restrictions

The California Energy Commission is amending section 3103 of Title 20 of the California Code of Regulations in this emergency rulemaking action. The purpose of this action is to modify existing regulatory text establishing funding restrictions for the Alternative and Renewable Fuel and Vehicle Technology Program. This emergency action removes the requirement to discount the value of any emission credits received in an amount commensurate with the level of funding obtained from the Energy Commission for those that voluntarily opt-in to programs for the purpose of participating in the program's credit market. This change would allow these program participants to receive the full value of any emission credits the funded projects create.

Title 20
 California Code of Regulations
 AMEND: 3103
 Filed 03/12/2015
 Effective 03/12/2015
 Agency Contact: Lisa DeCarlo (916) 654-5195

File# 2015-0312-01
CALIFORNIA HEALTH BENEFIT EXCHANGE
 2016 Standard Benefit Design

This action re-adopts and amends the 2016 Standard Benefit Design, which standardizes the way health insurers design their health plans. The re-adoption amends drug plans to establish four drug tiers and define the criteria Qualified Health Plans must use for selecting which drugs shall be in which tier. The amendments also make minor clarification to the endnotes to the 2016 Standard Benefit Design, which guide a plan's application and implementation of applicable cost-sharing requirements.

Title 10
 California Code of Regulations
 ADOPT: 6432
 Filed 03/18/2015
 Effective 03/18/2015
 Agency Contact: Andrea Rosen (916) 228-8343

File# 2015-0306-03
CALIFORNIA HEALTH BENEFIT EXCHANGE
 2016 SHOP and Qualified Dental Plan Recertification

This emergency rulemaking action by the California Health Benefit Exchange (HBEX) adopts sections 6426 and 6434 of title 10 of the California Code of Regulations. Specifically, these regulations establish the process and requirements for eligible health issuers in both the Individual Exchange and the Small Business Health Options Program (SHOP) Exchange to submit proposed qualified dental plans (QDPs) for recertification for the Plan Year 2016. The forms used for recertification are also created through this rulemaking. This rulemaking also allows applicants for qualified health plan (QHP) certification or recertification in the SHOP Exchange to submit proposals for an effective date of October 1, 2015.

Title 10
 California Code of Regulations
 ADOPT: 6426, 6434
 Filed 03/16/2015
 Effective 03/16/2015
 Agency Contact: Andrea Rosen (916) 228-8343

File# 2015-0304-02
DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Canine Searches of All Individuals

The Department of Corrections and Rehabilitation readopted section 3410.2 and amend sections 3000, 3173.2, 3287, and 3410.1 of title 15 of the California Code of Regulations to provide for canine searches. This regulatory action was certified on September 5, 2014 as an operational necessity by the Undersecretary and deemed an emergency by the Legislature pursuant to Penal Code section 5058.3

Title 15
 California Code of Regulations
 ADOPT: 3410.2 AMEND: 3000, 3173.2, 3287, 3410.1
 Filed 03/17/2015
 Effective 03/17/2015
 Agency Contact: Gail Long (916) 445-2276

File# 2015-0130-01
DEPARTMENT OF CORRECTIONS AND REHABILITATION
 STG Pilot Program

This action, without regulatory effect, repeals the Security Threat Group (STG) Pilot Program, which expired by operation of law and its own regulatory sunset provision on October 18, 2014, pursuant to the two-year pilot program limit. (PC 5058.1.)

Title 15
 California Code of Regulations
 REPEAL: 3999.13
 Filed 03/12/2015
 Agency Contact: Josh Jugum (916) 445-2228

File# 2015-0203-06
 DEPARTMENT OF FOOD AND AGRICULTURE
 Standard Containers

This regular rulemaking by the Department of Food and Agriculture amends sections 1428.6, 1428.7, 1428.8, 1428.10, and 1428.12 of title 3 of the California Code of Regulations (the “CCR”). There have been increases in the size and the number of varieties of cherries grown and packed by the cherry industry. As such, these amendments to title 3 of the CCR delete variety-specific requirements, change cherry tolerance standards, and amend labeling requirements regarding both row size and the minimum diameter of the cherries within a given container.

Title 3
 California Code of Regulations
 AMEND: 1428.6, 1428.7, 1428.8, 1428.10, 1428.12
 Filed 03/17/2015
 Effective 03/17/2015
 Agency Contact: Steve Patton (916) 900-5030

File# 2015-0302-02
 EDUCATION AUDIT APPEALS PANEL
 Supplement to Audits of K-12 LEAs — FY 2014-15

This emergency rulemaking action by the Education Audit Appeals Panel (EAAP) supplements the audit guide that is used for auditing California K-12 Local Education Agencies (LEAs) for FY 2014-15, pursuant to Education Code section 14502.1.

Title 5
 California Code of Regulations
 AMEND: 19810
 Filed 03/12/2015
 Effective 03/12/2015
 Agency Contact:
 Timothy E. Morgan (916) 445-7745

File# 2015-0220-04
 STATE PERSONNEL BOARD
 Conflict-of-Interest Code

This is an amendment to a Conflict-of-Interest Code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 2
 California Code of Regulations
 AMEND: 549
 Filed 03/17/2015
 Effective 04/16/2015
 Agency Contact:
 Dorothy Bacskai Egel (916) 653-1466

File# 2015-0203-05
 STATE WATER RESOURCES CONTROL BOARD
 San Francisco Bay BPA Lagunitas Watershed Sediment TMDL

The State Water Resources Control Board (Board) adopted section 3919.15 of title 23 of the California Code of Regulations which would provide a summary of the Basin Plan amendment adopted on June 11, 2014 to the Water Quality Control Plan for the San Francisco Bay Basin by the San Francisco Regional Water Quality Control Board in Resolution No. R2-2014-0027. This amendment established (1) a total maximum daily load (TMDL) for sediment in Lagunitas Creek, (2) numeric targets for streambed mobility and red scour, (3) allocations for all significant sediment sources, and (4) an implementation plan.

Title 23
 California Code of Regulations
 ADOPT: 3919.15
 Filed 03/17/2015
 Effective 03/17/2015
 Agency Contact:
 Michael Napolitano (510) 622-2397

File# 2015-0205-01
 STATE WATER RESOURCES CONTROL BOARD
 TMDL for Chloride in the Upper Santa Clara River

The State Water Resources Control Board submitted this Government Code section 11353 action to amend the Los Angeles Regional Water Quality Control Board basin plan containing total maximum daily loads (TMDLs) and site-specific objectives (SSOs) for chloride in the Upper Santa Clara River (USCR), and to amend title 23, California Code of Regulations, section 3939.10 to add a concise summary of the basin plan amendment. The amendments to the basin plan would (1) revise the existing water quality objectives of 100 mg/L as an instantaneous maximum for chloride in Reaches 4B, 5, and 6 of the USCR to include a three-month rolling averaging period; (2) add conditional SSOs and corresponding TMDL waste load allocations for chloride of 150 mg/L for Reach 6 and Reach 5 of the USCR above the Valencia River Water Reclamation Plant outfall, and (3) extend the TMDL implementation schedule, applicable to the Santa Clarita Valley Sanitation District, for achieving these waste load allocations until July 2019.

Title 23
 California Code of Regulations
 AMEND: 3939.10
 Filed 03/18/2015
 Agency Contact: Jenny Newman (213) 576-6691

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN October 15, 2014 TO
 March 18, 2015**

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

11/10/14 AMEND: 1, 14, 20
 10/29/14 AMEND: 86

Title 2

03/17/15 AMEND: 549
 03/04/15 AMEND: 11087, 11088, 11089, 11090, 11091, 11092, 11093, 11094, 11095, 11096, 11097 REPEAL: 11098
 02/23/15 ADOPT: 59760
 02/23/15 ADOPT: 553, 553.1, 553.2, 553.3, 553.4, 553.5, 553.6, 599.100, 599.101, 599.102, 599.120, 599.121, 599.122, 599.123, 599.124, 599.140, 599.141, 599.142, 599.143, 599.144, 599.145, 599.146, 599.160, 599.161, 599.162, 599.163, 599.164
 02/09/15 AMEND: 1859.76
 02/02/15 AMEND: 18705, 18705.3, 18705.4, 18705.5 REPEAL: 18704, 18704.1, 18704.5
 02/02/15 AMEND: 18450.11
 02/02/15 AMEND: 18740
 01/22/15 AMEND: 54300
 12/31/14 ADOPT: 20620 AMEND: 20610, 20611, 20612, 20613, 20622 and renumber as 20621, 20623 and renumber as 20622, 20624 and renumber as 20623, 20625 and renumber as 20624, 20626 and renumber as 20625, 20627 and renumber as 20626, 20630, 20631, 20632, 20633, 20635 and renumber as 20634, 20636 and renumber as 20635, 20637 and renumber as 20636, 20638 and renumber as 20637, 20639 and

renumber as 20638, 20640, 20641, 20642, 20645 and renumber as 20643, 20646 and renumber as 20644, 20650, 20651, 20652, 20653, 20654, 20660, 20661, 20662, 20663, 20670, 20672, 20680, 20681, 20682 REPEAL: 20620, 20621, 20671, Appendices A and B to Chapter 6

12/18/14 ADOPT: 1859.167.1, 1859.167.2, 1859.167.3 AMEND: 1859.2, 1859.77.4, 1859.106.1, 1859.160, 1859.161, 1859.162, 1859.163, 1859.163.1, 1859.163.4, 1859.163.5, 1859.164, 1859.164.1, 1859.164.2, 1859.165, 1859.166, 1859.166.1, 1859.167, 1859.167.2 (renumbered as 1859.167.4), 1859.167.3 (renumbered as 1859.167.5), 1859.168, 1859.171, 1859.172

12/16/14 ADOPT: 557

12/15/14 AMEND: 18545, 18703.4, 18730, 18940.2

12/15/14 AMEND: 18704.1, 18705.1

12/15/14 AMEND: 18704

12/10/14 ADOPT: 20700, 20701, 20702, 20703, 20704, 20705, 20706, 20707

12/03/14 AMEND: 51.7

11/24/14 AMEND: 18942

11/24/14 AMEND: 18705.2

11/20/14 AMEND: 1859.73.2, 1859.76, 1859.78.7, 1859.82

11/03/14 ADOPT: 559.518

10/29/14 AMEND: 18705.3

10/27/14 AMEND: 10001, 10002, 10005, 10006, 10007, 10008, 10009, 10011, 10012, 10013, 10015, 10021, 10022, 10024, 10025, 10029, 10030, 10031, 10033, 10035, 10037, 10038, 10039, 10041, 10042, 10046, 10047, 10050, 10053, 10054, 10056, 10057, 10061, 10062, 10063, 10065

10/20/14 AMEND: 18705.2

10/17/14 AMEND: 3435

10/17/14 AMEND: 3435(b)

Title 3

03/17/15 AMEND: 1428.6, 1428.7, 1428.8, 1428.10, 1428.12

03/02/15 AMEND: 3435(b)

02/25/15 AMEND: 2

02/18/15 AMEND: 4500

02/12/15 AMEND: 3435(b)

02/02/15 AMEND: 1392.8.1

01/27/15 AMEND: 3591.13(a)

01/26/15 AMEND: 3435(b)

01/21/15 AMEND: 300, 301

CALIFORNIA REGULATORY NOTICE REGISTER 2015, VOLUME NO. 13-Z

01/16/15 AMEND: 3435
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- 02/09/15 AMEND: 1588
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- 12/09/14 AMEND: 18662-0, 18662-3, 18662-4, 18662-5, 18662-6, 18662-8
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- 10/30/14 AMEND: 1062, 1064, 1066, 3833.1
- 10/29/14 ADOPT: 3979.8
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- 10/27/14 AMEND: 2200, 2200.2, 2200.5, 2200.6, 2200.7, 3833
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