



# 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: Great Valley Academy

**AMENDMENT**

MULTI-COUNTY: Sierra Joint Community College District

A written comment period has been established commencing on May 1, 2015, and closing on **June 15, 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 pro-

posed conflict-of-interest code(s). Any written comments must be received no later than **June 15, 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 Commis-

sion should be made to Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## TITLE 2. OFFICE OF TRAFFIC SAFETY

### NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE OFFICE OF TRAFFIC SAFETY

NOTICE IS HEREBY GIVEN that the Office of Traffic Safety, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendments to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Office of Traffic Safety proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment adds a position and makes other technical changes to reflect the current organizational structure of the Department. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than June 15, 2015, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than June 1, 2015 by contacting the Contact Person set forth below.

The Office of Traffic Safety has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The Office of Traffic Safety has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.

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

In making these proposed amendments, the Office of Traffic Safety must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Robert Nelson  
2208 Kausen Drive, Suite 300  
Elk Grove, CA 95758  
916-509-3030

## TITLE 2. STATE LANDS COMMISSION

### ARTICLE 4.8. BIOFOULING MANAGEMENT TO MINIMIZE THE TRANSFER OF NONINDIGENOUS SPECIES FROM VESSELS OPERATING IN CALIFORNIA WATERS

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

#### PROPOSED REGULATORY ACTION

The Commission proposes to amend and renumber Section 2298 and adopt sections 2298.1, 2298.2, 2298.3, 2298.4, 2298.5, 2298.6, 2298.7, 2298.8, 2298.9, and 2298.9.1 under Article 4.8 in Title 2, Division 3, Chapter 1 of the California Code of Regulations (CCR). These sections would establish regulations governing the management of biofouling on vessels arriving at a California port or place, as required by Public Resources Code (PRC) section 71204.6.

Specifically, the proposed regulatory action will:

- Amend section 2298, and renumber as Section 2298.5, to modify the existing Hull Husbandry Reporting Form and the annual submission requirement;

- Adopt section 2298.1 to define the purpose, applicability, and date of implementation for the provisions of Article 4.8;
- Adopt section 2298.2 to define specific terms to provide clarity for the provisions of Article 4.8;
- Adopt section 2298.3 to establish requirements for developing and maintaining a vessel-specific Biofouling Management Plan;
- Adopt section 2298.4 to establish requirements for developing and maintaining a vessel-specific Biofouling Record Book;
- Adopt section 2298.6 to establish minimum requirements for biofouling management of a vessel's wetted surfaces;
- Adopt section 2298.7 to establish additional biofouling management requirements for high-risk vessels remaining in one port or place for forty-five days or greater;
- Adopt section 2298.8 to clarify that propeller polishing is not prohibited under this regulatory action;
- Adopt section 2298.9 to establish a process for the submission and approval of alternatives to Article 4.8, should such cases occur; and
- Adopt section 2298.9.1 to establish criteria for emergency exemptions.

The proposed regulatory action will implement PRC section 71204.6 in accordance with the authority granted by PRC section 71201.7.

#### WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at 5:00 p.m. on June 16, 2015. All written comments must be received at the Commission by that time. Written comments should be submitted to:

Ravindra Varma  
 Supervisor, Planning Branch  
 California State Lands Commission  
 Marine Facilities Division  
 200 OceanGate, Suite 900  
 Long Beach, CA 90802

Written comments may also be submitted by facsimile at (562) 499-6317 or by email to [CSLC.MFDRegulations@slc.ca.gov](mailto:CSLC.MFDRegulations@slc.ca.gov). All written comments submitted via e-mail must include "**Article 4.8 Comments**" in the subject line of the e-mail.

#### PUBLIC HEARING

Commission staff has scheduled a public hearing on this proposed action. The hearing will be held on Tuesday June 16, 2015, from 9:00 a.m. The location of the hearing is:

Port of Long Beach  
 Board Room  
 4801 Airport Plaza Drive  
 Long Beach, CA 90815

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

#### AUTHORITY AND REFERENCE

Public Resources Code section 71201(d) declares that the purpose of the Marine Invasive Species Act (the Act) is to move the State expeditiously towards elimination of the discharge of nonindigenous species into waters of the State. Public Resources Code section 71201.7 provides the Commission with the authority to adopt regulations as necessary to implement the provisions of the Act. The proposed regulations would implement, interpret, and make specific PRC section 71204.6. This section of statute directs the Commission to develop and adopt regulations governing the management of biofouling on vessels arriving to a California port or place.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Legislature amended the Marine Invasive Species Act (Public Resources Code section 71200 *et seq.*) in 2007 to add PRC section 71204.6. Public Resources Code section 71204.6 requires the Commission to develop and adopt regulations governing the management of biofouling on vessels, 300 gross registered tons and above, arriving at a California port or place, excluding vessels of the armed forces or vessels in innocent passage as defined in PRC section 71202. PRC section 71204.6 also requires the Commission to consider vessel design and voyage duration in developing these regulations. The section further requires the Commission to develop the regulations based on the best available technology economically achievable, and to design the regulations to protect the waters of the state.

Accordingly, the proposed rulemaking would implement the requirement to adopt biofouling management regulations mandated under PRC section 71204.6. The State cannot achieve the purpose of the Act, as described in PRC section 71201(d), without the proposed regulations.

The proposed regulations will amend one section and adopt ten sections. A description of each of the proposed regulations is presented below.

Section 2298 of the California Code of Regulations is amended and renumbered as Section 2298.5. This section would change the timing of annual submission of the Hull Husbandry Reporting Form from “within 60 days of receiving a written or electronic request from the Commission” to “twenty-four hours in advance of the first arrival of the calendar year to a California port or place.” This section would also amend the “Hull Husbandry Reporting Form” revision date from June 6, 2008, to June 5, 2014. The revised Hull Husbandry Reporting Form is incorporated by reference and is available for review.

Section 2298.1(a) would establish the purpose of Article 4.8.

Section 2298.1(b) would specify the vessels to which these regulations apply.

Section 2298.1(c) would specify that the Commission will interpret adjacent ports within identified shared California waters as the same port or place.

Section 2298.1(d) would identify the date of implementation of these regulations.

Section 2298.1(e) would specify that the Commission will monitor the effectiveness of these regulations by evaluating vessel compliance and biofouling extent after implementation of the proposed regulations, and will revise these regulations as necessary. This section would also specify that the Commission will revise these regulations at a later date to adopt biofouling compliance assessment protocols, after developing and vetting them through a technical advisory group process.

Section 2298.2 would define key terms used throughout the text of the regulations to describe management requirements and regulation applicability. These definitions provide clear intent of the regulatory language and are necessary to encourage compliance as intended by the regulations.

Section 2298.3 would make specific the requirements for the development and maintenance of a Biofouling Management Plan. The Biofouling Management Plan shall:

- Be aligned with the International Maritime Organization’s *Guidelines for the Control and Management of Ships’ Biofouling to Minimize the Transfer of Invasive Aquatic Species* (hereafter referred to as the “IMO Biofouling Guidelines”);

- Describe the vessel-specific biofouling management strategy;
- Be maintained onboard the vessel; and
- Be made available for inspection by Commission staff upon request.

Section 2298.4 would make specific the requirements for the development and maintenance of a Biofouling Record Book. The Biofouling Record Book shall:

- Be aligned with the IMO Biofouling Guidelines;
- Document the implementation of the vessel-specific biofouling management strategy since the most recent of either a vessel’s delivery or the prior out-of-water maintenance;
- Be maintained onboard the vessel; and
- Be made available for inspection by Commission staff upon request.

Section 2298.5 would modify the timing of submittal for an existing reporting form, the annual Hull Husbandry Reporting Form. This modification would require reporting form submission twenty-four hours in advance of a vessel’s first arrival of a calendar year to a California port or place. This modified submission timing would enable the Commission to collect necessary data to prioritize boarding and inspection prior to vessel arrival based on a per-vessel risk assessment. Data-driven prioritization of inspector resources will enable Commission staff to identify vessels with greater perceived nonindigenous species (NIS) introduction risk, and to track the occurrence and impacts of maintenance and operational practices that influence biofouling accumulation. Evaluating temporal trends in these practices and their effects on biofouling accumulation would also enable Commission staff to evaluate the effectiveness of the proposed regulations and to inform any further revisions of these regulations, if necessary.

This section will slightly modify an existing reporting form, including a small clarifying revision in one question. The revised form would be incorporated by reference: *Hull Husbandry Reporting Form (Revised June 5, 2014)*.

Section 2298.6 makes specific minimum requirements for biofouling management of a vessel’s wetted surfaces. This section also makes specific additional requirements for vessels that exhibit obviously excessive biofouling levels.

Section 2298.7 makes specific a performance standard based on biofouling extent (i.e. percentage cover) for vessels that remain in a port, place, or shared waters for forty-five days or greater prior to arriving to a California port or place.

Section 2298.8 would specify that these regulations do not prohibit or limit propeller cleaning in California waters.

Section 2298.9 makes specific the process for submission and approval of petitions for alternatives to Article 4.8, should such cases occur. Alternatives proposed in petitions must fulfill the purpose of the regulation in Section 2298.1(a), and will be approved or withdrawn by the Commission’s Marine Facilities Division Chief.

Section 2298.9.1 outlines the conditions that must be met for a vessel to claim an emergency exemption from the requirements of Article 4.8.

#### DETERMINATION ON MAJOR REGULATION DESIGNATION

The Commission has determined that the proposed rulemaking action is not a major regulation, as defined by Government Code section 11342.548 and 1 CCR section 2000. The rulemaking action places record-keeping, reporting, and biofouling management requirements on vessel masters, owners, operators, or persons in charge of a vessel. None of these parties are considered California business enterprises or individuals. Most of the affected businesses are international shipping companies headquartered outside of California.

Although none of the affected parties are considered California business enterprises or individuals, Commission staff evaluated the cumulative cost impacts predicted to occur, as specified by 1 CCR section 2000. The predicted costs are based on an average of 1817 unique vessels arriving at California ports or places each of the previous five years (2010 through 2014). Additional cost impact details are provided in this document within the section titled *COST IMPACTS ON REPRESENTATIVE PERSONS OR BUSINESSES*.

During any 12-month period between the date the regulation is estimated to be filed with the Secretary of State through 12 months after the regulation is estimated to be fully implemented, the cumulative cost impacts on international businesses are predicted as follows:

- A one-time cost of up to \$7.27 million dollars cumulatively to prepare and maintain a Biofouling Management Plan and Biofouling Record Book for all of the approximately 1817 vessels arriving at California ports or places within a 12-month period.
  - The actual cost is expected to be lower because an unknown number of vessels already have these documents onboard through voluntary implementation of the

IMO Biofouling Guidelines. Several shipping companies have also indicated that ship owners with multiple vessels will be able to use a company-specific template to spread the costs out over their fleet and reduce overall costs.

- Between \$0.51 million and \$2.14 million cumulatively for in-water cleaning (if needed) for approximately 51 vessels (2.8% of total) arriving at California ports or places during a 12-month period that are not expected to comply with biofouling management requirements.
- New costs associated with niche area management are variable and depend on management decisions made by the vessel owner. These potential costs are therefore difficult to predict.
  - At a minimum, adding the application of anti-fouling or foul-release coatings to niche areas, in addition to hull surfaces, while a vessel is in dry dock will incrementally increase the coating costs.
  - Vessel owners may choose to conduct in-water cleaning of niche areas as their identified method of management. In these cases, the costs may be as low as \$2,000 to \$5,000 per ship to clean a propeller. Costs associated with in-water cleaning of other niche areas are unknown, but are expected to be less than the cost to clean an entire ship (i.e. less than \$10,000 to \$42,000). Assuming that each of the approximately 1817 vessels arriving at California ports or places within a 12-month period manages niche areas through in-water cleaning using an estimate of \$10,000 per ship (i.e. the lower estimate for cleaning the entire ship), the cumulative cost is predicted to be up to \$18.17 million.
- New costs associated with requirements targeted at vessels with obviously excessive biofouling and vessels with extended residency periods are dependent on the small, but unknown, number of vessels that will fall into these categories.
  - Each vessel that does fall under these categories will likely either need to undergo an in-water inspection at a cost of \$2,500 to \$6,500 per ship or in-water cleaning (including inspection) at a cost of \$10,000 to \$42,000 per ship. Assuming that the percentage of vessels reporting extended residency periods remains similar to the 2.82% (approximately 51 vessels) reported in 2008 and the 3.96% (approximately 72 vessels) reported in 2011, the cumulative

costs are predicted to be between \$0.51 million and \$3.02 million.

- The number of vessels exhibiting obviously excessive biofouling is unknown, but is expected to be similarly low. The potential cost impacts are therefore likely to be similar, ranging between \$0.51 and \$3.02 million. Examples of vessel hulls with obviously excessive biofouling within the scientific literature are few and are generally associated with slow or stationary vessels (e.g. barges and laid-up vessels). Although the operational profile of barges (e.g. slow moving, long residency periods) has generally been associated with excessive biofouling, a study of coastal barges operating on the U.S. west coast (Davidson et al. 2010a) showed low levels of biofouling, likely due to frequent voyages into freshwater (e.g. Columbia River), which can function as a biocide for marine species.

Using the higher estimates for each potential cost factor, the total cumulative cost impact of regulation adoption for the approximately 1817 unique vessels arriving at a California port or place during any 12-month period (as defined in 1 CCR section 2000(g)) is predicted to be \$33.62 million.

#### ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

See the description of anticipated benefits of the proposed regulation under “STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT” below.

#### CONSISTENCY/COMPATIBILITY WITH EXISTING STATE REGULATIONS

The Commission evaluated the proposed regulations for any inconsistency or incompatibility with existing state regulations and has found that these are the only regulations dealing with comprehensive management of biofouling on vessels arriving at a California port or place. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Through the Clean Water Act section 401 certification of the U.S. Environmental Protection Agency’s (EPA) 2013 Vessel General Permit for Discharges Incidental to the Normal Operation of Vessels (VGP), the State Water Resources Control Board (Water Board) has placed restrictions on in-water cleaning in copper-

impaired waterbodies. These restrictions are primarily driven by concerns about increased copper discharges into copper-impaired waterbodies. These restrictions may influence the location and frequency of in-water cleaning in California waters, but the Water Board’s restrictions do not require biofouling management. In most cases, these restrictions limit the availability of in-water cleaning in several California ports.

#### DIFFERENCES FROM FEDERAL REGULATIONS

United States federal requirements for biofouling management to prevent the introduction of NIS can be found within the Code of Federal Regulations adopted and implemented by the United States Coast Guard (USCG) and the VGP adopted and implemented by the EPA.

The USCG requirements are found specifically within 33 CFR 151.2050(e), 33 CFR 151.2050(f), and 33 CFR 151.2050(g)(3). These regulations require the following management activities:

- Rinsing of vessel anchors and anchor chains to remove organisms at their place of origin;
- Removing biofouling from the hull, piping, and tanks on a regular basis;
- Disposing of any removed substances in accordance with local, state, and federal regulations; and
- Detailing biofouling maintenance and sediment removal procedures within a ballast water management plan.

The USCG requirements do not provide guidance for biofouling removal frequency, other than the undefined phrase “regular basis.” Therefore, there is no specific requirement to manage biofouling in a comprehensive manner. There is a requirement to keep biofouling management records onboard, within a vessel’s ballast water management plan. Unlike the proposed regulations for vessels arriving at California ports, there is no USCG requirement to submit reporting forms detailing biofouling management activities. There also are no requirements for high-risk vessels that remain in one location for extended periods to manage biofouling prior to entering a United States port or place.

The EPA requirements are found specifically within the 2013 VGP sections 2.2.20 and 2.2.23. These provisions require the following biofouling management activities:

- Removal of fouling organisms from seawater piping on a regular basis and disposal of removed substances in accordance with local, state, and federal regulations; and

- Minimize the transport of attached living organisms when traveling into U.S. waters from outside the U.S. economic zone or between Captain of the Port zones.

The EPA requirements offer limited guidance on management measures to minimize the transport of attached living organisms. These management measures may include the use of appropriate anti-fouling management systems, in-water inspection and cleaning, and thorough cleaning of hulls and niche areas while in dry dock. The EPA VGP requirements are vague (e.g. “minimize”, “regular basis”) and function more like guidance rather than enforceable requirements.

Unlike the proposed regulations for vessels at California ports, there is no EPA VGP requirement to submit annual reporting forms outlining vessel-specific maintenance and operational practices that influence biofouling accumulation and viability. The EPA requires vessels to submit limited maintenance information in a Notice of Intent at the initiation of each five-year VGP cycle. This five-year cycle does not allow for the reporting of ongoing biofouling management activities or operational practices that may result in significantly greater NIS introduction risk. There is no mechanism for properly assessing risk on a per-arrival basis, a practice that is critical to ensuring that high-risk vessels are identified and properly inspected and managed.

Unlike the proposed California regulations, the EPA VGP contains no requirements for vessels that represent high NIS introduction risk, specifically:

- Vessels without anti-fouling or foul-release coatings;
- Vessels with anti-fouling or foul-release coatings that are aged beyond their effective coating lifespan;
- Vessels with obviously excessive biofouling; and
- Vessels remaining in one geographic location for extended residency periods.

The planning and implementation of a biofouling management strategy made specific by the proposed regulations are necessary to minimize the transport of nonindigenous species into and throughout the waters of the State of California.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

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

#### LOCAL MANDATE

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

#### FISCAL IMPACTS

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

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

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

#### HOUSING COSTS

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

#### STATEMENT REGARDING ADVERSE ECONOMIC IMPACTS DIRECTLY AFFECTING BUSINESSES, INCLUDING ABILITY TO COMPETE

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

#### STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Through the Economic Impact Assessment, Commission staff has determined that the proposed regulations:

- (1) Will have no significant impact upon the elimination of jobs within the State of California. The proposed regulations may result in the creation of a small but uncertain number of jobs within the State of California;
- (2) Will have no significant impact upon the elimination of existing businesses within the State of California. The proposed regulations may result in the creation of a small but uncertain number of new businesses within the State of California;

(3) May significantly expand several categories of businesses currently doing business within the State of California, specifically businesses specializing in:

- The development and manufacturing of anti-fouling systems; and
- In-water cleaning and treatment services.

(4) Will have no significant impact upon worker safety within the State of California.

Commission staff has determined that the proposed regulations will benefit:

(1) The state’s environment by:

- Establishing biofouling management requirements to reduce the likelihood of vessels arriving at California with excessive biofouling;
- Reducing the risk of biofouling-mediated introductions of NIS into California waters;
- Reducing the likelihood of future environmental, human health, and economic impacts resulting from the introduction and establishment of new biofouling-mediated NIS.

The proposed regulations meet the purpose of the Marine Invasive Species Act (Public Resources Code section 71201(d)): “. . . to move the State expeditiously toward elimination of the discharge of nonindigenous species into the waters of the state . . .”

(2) The health and welfare of California residents by ensuring that vessels operating within California undertake a minimum level of biofouling management to reduce the risk of biofouling-mediated introductions of:

- Pathogens and parasites (Davidson et al. 2013); and
- Harmful nonindigenous species (e.g. harmful algal blooms and toxic diatoms)

The health and welfare of California residents will benefit significantly from the adoption and implementation of the proposed regulations.

**COST IMPACTS ON REPRESENTATIVE PERSONS OR BUSINESSES**

Sources of information

The estimates presented here were obtained from four sources:

- 1) Estimates provided by shipping industry representatives who were involved in the Technical Advisory Group that advised the development of the proposed regulations;
- 2) Vessel-reported data provided to the Commission through mandatory submission of the annual Hull Husbandry Reporting Form, since 2008;

- 3) Academic peer-reviewed papers; and
- 4) Technical and/or government reports.

The implementation of the proposed regulations may result in both costs and benefits to the regulated community. In most cases, Staff expects the costs to be minor. Many of the costs associated with biofouling management are already incorporated into operational strategies because of the economic incentive to minimize biofouling-induced drag and associated fuel consumption. Biofouling on the hull of a vessel increases the surface roughness, leading to increased hydrodynamic drag as the vessel moves through the water. Increased drag requires the vessel to use more power and fuel to maintain speed. Therefore, the greater the amount of biofouling on a vessel’s hull, the more fuel efficiency suffers as a result.

Improved biofouling management is therefore expected to reduce biofouling extent and increase fuel efficiency overall, reducing operational costs and greenhouse gas emissions. Staff therefore expects the proposed regulations to present a variety of benefits to both the maritime shipping industry and California, as detailed in the sections below.

Costs

Most of the costs associated with the proposed biofouling management regulations are already integrated into the current practices of the commercial fleet to reduce biofouling-induced drag and maximize fuel efficiency. Most of these costs are associated with practices to prevent biofouling attachment or accumulation, including the purchase, application, and appropriate use of anti-fouling and foul-release coatings (i.e. using coatings that are not aged beyond their effective lifespan). In most cases, the benefits of improved fuel efficiency and reduced operating costs far outweigh the costs associated with biofouling management.

Some additional costs may result from the implementation of the proposed regulations. These costs are detailed below.

*Biofouling Management Plan (2 CCR §2298.3) and Biofouling Record Book (2 CCR §2298.4)*

There may be costs associated with the development and maintenance of the required Biofouling Management Plan and Biofouling Record Book. Both the Biofouling Management Plan and Biofouling Record Book proposed in these regulations are also part of the IMO Biofouling Guidelines. Although the IMO Biofouling Guidelines are voluntary, it is reasonable to assume that proactive owners and operators will adopt the guidelines and develop these documents. In these cases, additional costs to comply with the proposed regulations should be minimal.

Several companies have indicated that most of the information needed for the development and maintenance

nance of these documents is already kept onboard or as part of a vessel's records within a Ship Management System. In these cases, the costs are expected to be minimal. One company indicated that it would cost about \$4,000 per vessel to develop the Biofouling Management Plan and Biofouling Record Book. Another company indicated that it takes about 40 person-hours per vessel to develop these documents.

As indicated by one company, owners and operators of multiple vessels will be able to spread the cost of developing multiple sets of documents across their fleet, resulting in reduced per-vessel costs.

*Hull Husbandry Reporting Form (2 CCR §2298.5)*

The annual submission of the Hull Husbandry Reporting Form (HHRF) has been a requirement since 2008, and most vessels comply with the requirement (at least 90% each year since 2008). The proposed regulations merely change the timing of HHRF submission, so no additional costs are expected.

*Biofouling management of hulls and other wetted surfaces (2 CCR §2298.6(a))*

Most vessels already implement best practices by using anti-fouling and foul-release coatings appropriately (i.e. within the coating's expected lifespan). These vessels would be compliant with the proposed provisions in this section, and therefore should have no additional costs.

The small portion of vessels operating in California (approximately 2.8% of the fleet in 2011) with coatings that have exceeded their effective coating lifespan documented in their Biofouling Management Plan will be subject to a performance standard to minimize NIS introduction risk. These vessels may have to manage their biofouling so that the macrofouling percentage cover does not exceed five percent of the investigated area (as determined by Commission staff using compliance assessment protocols). Some of the coatings on these vessels may still be functional to the point where the performance standard can be met without additional management actions. These vessels should have no additional costs to comply with this proposed provision.

Vessels that are subject to, and exceed, the performance standard will have several options to comply with the proposed regulations. The most likely option that masters, owners, operators, or persons in charge of a vessel may choose in order to remove the biofouling and comply will be in-water cleaning or in-water treatment. The estimated costs associated with in-water cleaning or treatment range from \$10,000 to \$42,000 per cleaning event. The costs vary because of vessel size, geographic location where the service is performed, and the type of cleaning.

Another option that is available for these vessels, as a last resort due to cost, is an unscheduled out-of-water cleaning. The estimated costs associated with out-of-water cleaning range from \$150,000 to \$1,200,000. The estimates vary due to several factors, including:

- Location of the out-of-water cleaning facility;
- Whether a new coating is applied;
- The condition of the surface to be painted; and
- Whether other maintenance is being performed.

If the out-of-water option is selected, the owner or operator may decide to apply a new coating with a longer lifespan and specifications matching the operational practices of the given vessel.

*Biofouling Management for Niche Areas (2 CCR §2298.6(b))*

This provision of the proposed regulations requires management of certain vessel niche areas in any manner that the master, owner, operator, or person in charge determines is appropriate. This subpart includes several different niche areas, and there are many management options available for each.

One option is the targeted application of appropriate anti-fouling or foul-release coatings to certain niche area surfaces. With proper planning, this option can be implemented during a scheduled out-of-water maintenance (e.g. dry docking). In this case, the additional amount of ship surface area to be coated is expected to be minimal. Therefore, the coating application cost is expected to be a marginal increase from the cost of the already scheduled out-of-water maintenance and coating application.

Another available option for management of sea chests and internal piping networks is the installation of Marine Growth Prevention Systems (MGPS). These systems are typically installed in sea chests or sea strainers and release small doses of biocides (typically copper or sodium hypochlorite) to prevent the settlement of biofouling organisms. The cost for MGPS installation and maintenance depends on the type of system installed and the number of units needed (typically based on the number of sea chests), and has been estimated at \$100,000 to \$1,000,000 per ship. In most cases, there should be no additional costs for the continued addition of biocides between dry dockings. Many vessels that visit California (at least 50% each year from 2008 to 2011) already have MGPSs installed (Scianni et al. 2013). No additional costs associated with biofouling management in sea chests and internal piping networks are anticipated for these vessels.

Another option for managing certain niche areas is in-water cleaning. Many masters, owners, operators, or persons in charge of a vessel choose to conduct in-water cleaning of the propeller (i.e. propeller polishing)

because it typically increases the fuel efficiency. The estimated cost of propeller polishing is between \$2,000 and \$5,000 per cleaning. In-water cleaning can also be a suitable management option for many other niche areas.

There are many other options for managing niche areas, and vessel masters, owners, operators, or persons in charge are encouraged to determine which options are best suited for their vessels and operational profiles.

*Obviously Excessive Biofouling (2 CCR §2298.6(c) and Extended Residency Periods (2 CCR §2298.7)*

Section 2298.6(c) focuses on vessels that arrive at California waters with obviously excessive biofouling and Section 2298.7 focuses on vessels that have experienced extended residency periods. Each of these provisions is expected to be applicable to only a small minority of vessels operating in California. For example, 2.82% of vessels operating in California during 2008 and 3.96% during 2011 reported a residency period at or above 45 days.

A master, owner, operator, or person in charge of a vessel may wish to conduct an underwater inspection prior to transiting to California to determine the likelihood of compliance when arriving at a California port or place. A typical underwater inspection ranges from \$2,500 to \$6,500 per inspection.

If the vessel needs to be managed to achieve compliance with these two provisions, there are two likely management options available. One option is in-water cleaning or in-water treatment to remove or treat the obviously excessive biofouling. The estimated costs to conduct in-water cleaning or treatment range from \$10,000 to \$42,000. The costs vary because of vessel size, geographic location where the service is performed, and the type of cleaning.

Another management option for these vessels is unscheduled out-of-water maintenance. This option is likely to be a last resort due to the costs, estimated to be between \$150,000 and \$1,200,000.

*Propeller Cleaning (2 CCR §2298.8)*

This is merely a clarifying provision. There are no requirements associated with it, therefore no expected costs.

Benefits

Proper maintenance of biofouling will result in reduced fuel consumption and lower operational costs overall. Several studies suggest that the fuel savings would far outweigh the potential maintenance costs (Munk et al. 2009, Hydrex 2010, Schultz et al. 2011).

Schultz et al. (2011) determined that a decrease from light macrofouling on the hull to only microfouling (also referred to as a “slime layer”) on the hull would result in savings of approximately \$300,000 to \$400,000 in fuel costs per ship per year. These estimates were de-

veloped based on a mid-sized naval surface vessel (i.e. smaller and faster than typical merchant ships), so the exact savings may not be directly equivalent to the average merchant vessel. However, the principles would be similar, and the impacts of frictional resistance on drag are greater for longer ships and slower traveling speeds (IMO 2014). Therefore, there would undoubtedly be substantial financial benefits to a vessel maintained at a level of microfouling only.

Hydrex (2010) indicates that even a layer of microfouling on a typical commercial cargo vessel travelling at twenty knots would result in an additional \$4,500 per day in fuel costs, above costs associated with a clean hull.

Further discussion of the benefits of the proposed regulations, including benefits to the State associated with preventing NIS introductions, is provided in the Economic Impact Assessment within the Initial Statement of Reasons.

BUSINESS REPORT

Commission staff has determined that the proposed regulations will not impose any new reporting requirements upon businesses operating in the State. The proposed regulations will modify the submission timing for an existing annual reporting requirement.

SMALL BUSINESS DETERMINATION

Commission staff has determined that the adoption of these regulations may adversely affect small businesses. There are several small barge owners or operators based in California. These companies may or may not qualify as small businesses, as Government Code section 11342.610(c)(7) excludes the activity of “Transportation and warehousing, where the annual gross receipts exceed one million five hundred thousand dollars (\$1,500,000)” from classification as a “small business”. If these small barge companies do qualify as small businesses, and if the vessels owned or operated by these companies fall under the jurisdiction of the Commission (and are subject to the Act), they may incur costs to comply with the proposed regulations. The costs for these vessels would be similar to the costs for any vessel to comply. The startup costs would be up to \$4,000 per vessel to develop and maintain a Biofouling Management Plan and a Biofouling Record Book. Ongoing costs would be variable, ranging from \$0 to \$42,000 for full-scale in-water cleaning, if necessary.

The adoption of these regulations may indirectly expand or create small businesses. Additional local in-water cleaning capacity may be necessary if there is additional demand for cleaning services as a component of a comprehensive biofouling management strategy.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), Commission staff must determine that no reasonable alternative considered or otherwise identified and brought to the attention of Commission staff 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 the law.

Commission staff initially considered a “no project” alternative, and determined this approach to be inadequate. The “no project” alternative would have left in place minimal requirements established by the Legislature, and would not have satisfied the Legislative mandate established in Public Resources Code section 71204.6.

Commission staff convened a Technical Advisory Group (TAG) beginning in August 2010 to develop the most effective and least burdensome regulations possible that would still satisfy the Legislative mandate referenced above. This TAG consisted of scientists and representative stakeholders from the shipping industry, environmental organizations, and other government agencies. Shipping industry stakeholders included:

- Ship owners;
- Shipping trade groups;
- Anti-fouling coatings manufacturers;
- Dry docking companies;
- In-water cleaning companies;
- Marine Growth Prevention System companies; and
- Ship efficiency companies.

This TAG discussed a variety of regulatory alternatives, and reviewed three drafts of the proposed regulations during four meetings between August 2010 and April 2011.

The Commission prepared rulemaking documents and published the proposed regulations in the Notice Register in September 2011 (California Regulatory Notice Register 2011, No. 37-Z). Commission staff modified the text of the proposed regulations three times throughout the ensuing rulemaking process, and the rulemaking action ended in September 2012 without final adoption.

Commission staff reconvened the TAG in April 2013 to discuss several regulatory alternatives to the previous approach. This group has reviewed and discussed three

additional drafts of the proposed regulations between April 2013 and July 2014.

Commission staff published a revised draft of the proposed regulations on the Commission’s website in November 2014 to initiate an informal public comment period. The purpose of this informal comment period was to allow members of the public who had not been a part of the TAG to provide feedback on the regulatory approach outlined in the draft regulations. Commission staff also convened stakeholder meetings in southern and northern California in November 2014 to provide outreach and disseminate information about the informal comment period.

Commission staff and the TAG have now discussed and reviewed eleven drafts of the proposed regulations. Many alternative approaches have been discussed and analyzed during these review and comment periods. Specific alternatives discussed and reviewed include:

- Performance standards for biofouling percentage cover for all vessels, including vessel niche areas (standard proposed as 5% cover) and hulls (standard proposed as 1% cover).
  - These requirements were removed because of shipping industry concerns about the impacts of a perceived need to increase in-water cleaning frequency and the related impacts to the integrity of anti-fouling or foul-release coatings.
  - These standards were replaced by provisions codifying best practices (i.e. using anti-fouling or foul-release coatings within their effective coating lifespans) and allowing vessel owners/operators to identify and implement niche area management practices that they determine to be appropriate for their ships.
- Presumed compliance provisions for select maintenance practices in lieu of performance standards.
  - These provisions were removed because of shipping industry perceptions that many of the suggested options were impractical or ineffective.
  - These sections were replaced by provisions codifying best practices (i.e. using anti-fouling or foul-release coatings within their effective coating lifespans) and allowing vessel owners or operators to identify and implement niche area management practices that they determine to be appropriate for their ships.
- Extended residency period provisions for vessels remaining in one location for 90, 60, 45, or 30 days.

- The 90 and 60–day thresholds were rejected because they would have been ineffective at capturing and requiring biofouling management for a large enough portion of vessels that undergo long residency periods, a practice associated with a high likelihood of biofouling accumulation.
- The 30–day threshold was rejected because it was believed to place an extra management burden on too many vessels.
- The proposed 45–day threshold was selected because it represented most occurrences outside of normal vessel operations, and therefore would restrict the requirements to vessels that exhibit unusual operations (e.g. long–term layup).
- Biofouling Management Plans and Biofouling Record Books that were prescriptive in describing required components.
  - These requirements were rejected because of shipping industry concerns that they were too prescriptive.
  - These requirements were revised to require alignment with the IMO Biofouling Guidelines.

Records of the TAG discussions and the various draft regulatory documents are available for public review as part of this rulemaking. These documents are listed in the Initial Statement of Reasons under “Technical, Theoretical, and/or Empirical Study, Reports, or Documents Relied Upon.” Additionally, the public has reviewed and commented on five of these drafts, allowing Commission staff to understand the priorities and concerns of the public.

Commission staff has determined that the proposed regulations now represent the most effective and least burdensome approach to satisfying the Legislative mandate established in PRC section 71204.6.

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

#### CONTACT PERSONS

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

Christopher Scianni  
Senior Environmental Scientist  
California State Lands Commission  
Marine Facilities Division  
100 Howe Avenue, Suite 100 South  
Sacramento, CA 95825–8202  
Telephone: (916) 574–0209  
Facsimile: (916) 574–1950  
Email: [Chris.Scianni@slc.ca.gov](mailto:Chris.Scianni@slc.ca.gov)

Or to:

Mark Meier  
Chief Counsel  
California State Lands Commission  
100 Howe Avenue, Suite 100 South  
Sacramento, CA 95825–8202  
Telephone: (916) 574–1853  
Facsimile: (916) 574–1855  
Email: [Mark.Meier@slc.ca.gov](mailto:Mark.Meier@slc.ca.gov)

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

Ravindra Varma  
Supervisor, Planning Branch  
California State Lands Commission  
Marine Facilities Division  
200 Oceangate, Suite 900  
Long Beach, CA 90802–4335  
Telephone: (562) 499–6400  
Facsimile: (562) 499–6317  
[CSLC.MFDRregulations@slc.ca.gov](mailto:CSLC.MFDRregulations@slc.ca.gov)

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

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

AVAILABILITY OF CHANGED OR MODIFIED  
TEXT OF ORIGINALLY  
PROPOSED REGULATIONS

After considering all timely and relevant comments, the Commission may adopt the proposed regulations substantially as described in this notice. If Commission staff makes any sufficiently related modifications to the proposed text, the modified text with changes clearly indicated will be made available to the public for at least fifteen days prior to the date that the Commission adopts the regulations. Interested parties shall send requests for copies of any modified regulations to the attention of Ravindra Varma at the address indicated above. The Commission will accept written comments on the modified regulations for fifteen days after the date that they are made available.

AVAILABILITY OF THE FINAL STATEMENT  
OF REASONS

Upon its completion, interested parties may obtain a copy of the Final Statement of Reasons by contacting Ravindra Varma at the address, telephone number, or email address listed above or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the notice of proposed rulemaking, the initial statement of reasons, the proposed text of regulations, the economic impact assessment, relevant documents, and any future changes or modifications to the proposed text can be accessed through our website at: [http://www.slc.ca.gov/Division\\_Pages/MFD/MFD\\_Home\\_Page.html](http://www.slc.ca.gov/Division_Pages/MFD/MFD_Home_Page.html).

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

The Department of Food and Agriculture (Department) amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid Interior Quarantine as an emergency action which was effective on March 20, 2015. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than September 16, 2015.

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

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to [Sara.Khalid@cdfa.ca.gov](mailto:Sara.Khalid@cdfa.ca.gov). The written comment period closes at 5:00 p.m. on June 15 2015. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Sara Khalid  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street  
Sacramento, CA 95814  
[Sara.Khalid@cdfa.ca.gov](mailto:Sara.Khalid@cdfa.ca.gov)  
916.654.1017  
916.654.1018 (FAX)

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

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

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

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

Anticipated Benefits from This Regulatory Action

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

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably

necessary to carry out the provisions of this code which she is directed or authorized to administer or enforce.

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

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

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

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

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

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

FAC Section 401.5 states, “the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state.” The amendment of this regulation is preventing the artificial spread of ACP to uninfested areas of the State.

Huanglongbing (HLB) is generally distributed in Florida due to ACP being generally distributed there. The University of Florida Institute of Food and Agricultural Sciences Extension calculated and compared the impact of having and not having HLB present in Florida and concluded HLB had a total impact of \$3.64 billion and eliminated seven percent of the total Florida workforce. The overall California economy benefits by the amendment of this regulation which is intended to prevent ACP from becoming generally distributed in California and resulting in a similar affect on our economy as to what happened in Florida. This is now critical as HLB has been introduced into California.

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

The Department considered any other possible related regulations in this area, and we find that these are the only regulations dealing in this subject area, and the only State agency which can implement plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

#### AMENDED TEXT

This proposed emergency action expanded the quarantine area for ACP in the Bonadelle Ranchos–Madera Ranchos area of Madera County by approximately 79 square miles. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against ACP within this additional area. The total area which would be under regulation is now approximately 51,411 square miles.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

The Department 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.

Cost impacts on a representative private person or business: Most businesses will not be affected. There are no citrus production nurseries in the affected area that will be impacted. There is one retail nursery in the affected area. They will need to apply approved treatments every ninety days to ship within the quarantine area or to ship to a non-citrus producing state. Treatment costs will range from \$2.24 per plant to \$9.46 per plant depending on whether the nursery conducts the treatments or hires an outside applicator. In order to ship outside of the quarantine area, the nurseries will need to grow the nursery stock within an USDA approved ACP Exclusionary facility and apply approved treatments directly prior to shipment. The approximate cost of an ex-

clusionary facility is \$148,754–\$180,000 per individual structure which covers one-half to one acre. They will need to purchase pre-treated trees or apply the approved treatments. There are nine citrus growers in the proposed area. There is no additional cost to growers who take their fruit to a packinghouse inside the current quarantine area. Growers choosing a packinghouse outside the quarantine area have three options: 1. Conduct pre-harvest treatments with an approved pesticide while fruit is still on the trees; 2. Field clean the fruit to remove leaves and stems during harvest; 3. Send the fruit to a packinghouse within the quarantine to be cleaned. Pre-harvest treatments cost growers approximately \$60 per acre, and the fruit is required to be covered with a tarp while in transit. Tarps range in price from \$2,500–\$3,000 a piece. Field cleaning the fruit will cost the grower approximately \$150–\$320 per acre depending on the citrus variety. Field cleaned fruit do not require a tarp for transport and can be moved within or from the quarantined area. Cleaning at a packinghouse within the quarantine will cost the grower approximately \$300–\$400 per acre and the fruit must remain within the quarantine area, although the loads do not need to be covered with a tarp. There are zero citrus packing houses located within this additional quarantine area.

*Small Business Determination*

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

Significant effect on housing costs: None.

Results of the Economic Impact Analysis

Amendment of these regulations will not:

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

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to amend Section 3435(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the FAC.

REFERENCE

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

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is: Sara Khalid, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room 210, Sacramento, California 95814, (916) 654–1017, FAX (916) 654–1018, E-mail: Sara.Khalid@cdfa.ca.gov. In her absence, you may contact Laura Petro at (916) 654–1017. Questions regarding the substance of the proposed regulation should be directed to Sara Khalid.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/plant/Regulations.html](http://www.cdfa.ca.gov/plant/Regulations.html)).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of

the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

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

### TITLE 3. FOOD AND AGRICULTURE

**NOTICE IS HEREBY GIVEN** that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person beginning May 1, 2015 and ending at 5:00 p.m., June 15, 2015. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407, 27531, and 27533, Food and Agricultural Code, and to implement, interpret or make specific sections 27510, 27510.1, 27518, 27521, 27541, 27573, 27631, 27637, and 27680 of said Code, the Department is proposing to amend section 1358.4 of Subchapter 3, Chapter 1, Division 3, of Title 3 of the California Code of Regulations, to read as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW/BENEFITS

Existing law, section 27521 of the Food and Agricultural Code authorizes the Department to assure that healthful and wholesome eggs of known quality are sold in this state; to facilitate the orderly marketing of shell eggs in a uniform manner; and to prevent the marketing of deceptive or mislabeled containers of eggs.

Existing law, section 27531 of the Food and Agricultural Code, authorizes the Department to adopt regulations pertaining to the preparation for market and marketing of shell eggs.

Existing law, section 27533 of the Food and Agricultural Code, specifies that regulations adopted pursuant to Chapter 1, Part 4, Division 12, relating to egg shell surveillance inspection shall be consistent with any federal standards or procedures promulgated by the United States Department of Agriculture on that subject.

Existing law, section 27541 of the Food and Agricultural Code, requires any California egg producer or egg handler, or any out-of-state egg producer or egg handler selling eggs in California, to register with the Department. An egg handler is defined in section 27510 of the Food and Agricultural Code to mean a person engaged in the business of producing, candling, grading, packing, or preparing shell eggs for market or who engages in the operation of selling or marketing eggs that he or she has produced, purchased, or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, or employee.

Existing law, section 27571 of the Food and Agricultural Code, authorizes the establishment of an advisory committee on matters pertaining to standards for shell eggs, including egg quality and sampling, inspection, fee adjustment for administrating and enforcement purposes, budget administration, regulation adoption, and voluntary food safety programs in accordance with section 27573 of the Food and Agricultural Code.

In accordance with Food and Agricultural Code section 27680, the Department routinely performs audits and inspection of eggs and egg products whether in-state or out-of-state including the records relating to eggs of any person registered by the Department at that location as the Department considers necessary. The Department may contract with another agency of state government or with a state department of agriculture or other similar agency where the out-of-state registrant is domiciled to conduct the inspection.

A producer is defined in section 27510.1 of the Food and Agricultural Code to mean a person engaged in the business of producing eggs from domesticated fowl for human consumption. Because an egg producer, as defined, is inclusive of the activities which define an egg

handler, the Department is using the term “egg registrant” throughout this proposal, as it pertains to both an egg handler and egg producer.

This proposal pertains to all egg registrants [producers and handlers] who market shell eggs and egg products in California in accordance with sections 27531 and 27541 of the Food and Agricultural Code. This proposal amends the existing recordkeeping requirements in section 1358.4, of Title 3 of the California Code of Regulations by expanding upon the requirements to include the inspection of not only records and invoices but all documents relating to shell egg food safety and the inspection of the premises where egg-laying hens are housed if the eggs from those hens will be shipped into or within California and sold to California consumers in compliance with existing section 1350 of Title 3 of the California Code of Regulations.

Anticipated Benefits of the Proposal: This proposal benefits the health and welfare of the citizens of California by serving to ensure only healthful and wholesome eggs are marketed to consumers in accordance with Food and Agricultural Code section 27521. This proposal provides an additional mechanism for disease traceability that is critical to solving and ceasing food borne illness events, such as Salmonella in shell eggs, which will protect the health and welfare of the public.

The specific strain of Salmonella, as stated in this proposal, *Salmonella enteritidis* (SE) is the contamination of shell eggs during egg production. SE is among the leading bacterial causes of food borne illness in the United States and shell eggs are the primary source of human SE infections. The purpose of this proposal is to ensure egg registrants are in compliance with existing recordingkeeping requirements, which will include the Department’s inspection of all records and invoices and the premises where egg laying hens are housed if the eggs from those hens are marketed to California consumers to prevent or mitigate any potential outbreaks of food borne illness. Shell eggs from hens housed on a farm or facility that implements SE prevention measures in compliance with existing section 1350 of Title 3 of the California Code of Regulations, will serve to reduce or eliminate pathogenic bacteria in shell eggs and in the environment where the egg-laying hens are housed.

California consumers and the egg industry would benefit from this proposal as the Department is charged with the mission of assuring that healthful and wholesome eggs of known quality are sold in this state and facilitating the orderly marketing of shell eggs in a uniform manner in accordance with Food and Agricultural Code section 27521. Monetary benefits would be the potential reduction of the occurrence of SE in shell eggs which could cost the industry millions in recalling contaminated eggs from the marketplace and could lead to

illnesses to the public. Nonmonetary benefits would be consumer confidence that comes from knowing that eggs sold in California meet the nation’s highest food safety standards and market stability derived from strong food borne illness prevention measures applied equally to all suppliers into California markets.

Consistency and Compatibility with Existing State Regulations: The Department has evaluated this proposal and it is not inconsistent or incompatible with existing state regulations.

Documents Incorporated by Reference: None.

Documents Relied Upon in Preparing Regulations:

- Economic Impact Assessment
- Shell Egg Advisory Committee meeting minutes, January 7, 2015
- Excerpt of *General U.S. Statistics, Egg Industry Fact Sheet, Revised February 2015*, showing national egg production numbers and California’s national ranking.
- Sample *Bill of Lading* to show how shell eggs containers are labeled and packaged for shipment to distribution centers for sale in California [or transported through California to another state].

#### FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact: The Department has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. This determination is based on the fact that the proposal is necessary for the prevention and mitigation of any potential outbreaks of food borne illnesses, such as Salmonella, in shell eggs and shell egg food products in accordance with sections 27521, 27531 and 27541 of the Food and Agricultural Code and section 1350 of Title 3 of the California Code of Regulations.

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that a representative private person or businesses would necessarily incur in reasonable compliance with the proposed action. This proposal is necessary for the prevention and mitigation of any potential

outbreaks of food borne illnesses, such as Salmonella, in shell eggs and shell egg food products in accordance with sections 27521, 27531 and 27541 of the Food and Agricultural Code and section 1350 of Title 3 of the California Code of Regulations.

Persons/Businesses affected by the proposal:

- There are approximately 2,130 egg registrants. Of that number 1,854 are in-state and 276 are out-of-state. The Department's inspectors, or a certifying agent, conduct random audits, both in-state and out-of-state, of egg registrants' compliance with specified standards in accordance with Food and Agricultural Code section 27680 and Title 3, California Code of Regulations section 1358.4.

Anticipated compliance requirements as a result of this proposal:

- Recordkeeping requirement:

Egg registrants are required to keep certain records or invoices as specified in existing regulation section 1358.4. This proposal expands upon that requirement by adding that egg registrants shall keep and maintain records, invoices and documents relating to farm and facility operations for at least three years from the date the shell eggs and egg food products are shipped to, or within, California, that are intended for human consumption to California consumers. The Department believes this proposal does not adversely affect businesses or small businesses engaged in marketing eggs in California. The Department believes the three-year requirement is necessary and is reasonable as any needed investigation into a food borne illness outbreak would require inquiry into records up to, but no longer than, the period of three years. This requirement is not anticipated to incur increased costs to businesses as record-keeping is an existing standard business practice for persons marketing eggs in California. The Department's inspectors [or certifying agents] conduct random audits, both in-state and out-of-state, of egg registrants' compliance with specified standards in accordance with Food and Agricultural Code section 27680 and Title 3, California Code of Regulations section 1358.4. The maintenance and inspections of all records, invoices, and related documents provides an additional mechanism for disease traceability that is critical to solving and ceasing food borne illness events, such as Salmonella in shell eggs, which will protect the health and welfare of the public.

Effect on Housing Costs: None.

Effect on Small Businesses: The Department's proposal may affect small businesses.

RESULTS OF ECONOMIC  
IMPACT ASSESSMENT

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

The Department has made a determination that this regulatory proposal:

- Will have no significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations.
- Will not affect the creation of new businesses or the elimination of existing businesses within the State of California, and does not affect the expansion of businesses currently doing business within the State of California.
- Does not impact multiple industries.
- Benefits the shell egg and shell egg food industry by implementing inspection requirements by the Department on egg registrants marketing shell eggs and shell egg food products in California to prevent or mitigate food borne outbreaks, such as Salmonella, in shell eggs in accordance with sections 27521, 27531 and 27541 of the Food and Agricultural Code and section 1350 of Title 3 of the California Code of Regulations.

Benefits of the proposed regulation to the health and welfare of California residents, worker safety, and the State's environment: The proposed regulation benefits human health and welfare, worker safety, and the environment by serving to verify egg registrants' compliance with pathogen reduction measures that are intended to ensure that shell eggs and shell egg food products are safe and wholesome for human consumption. This proposal benefits the shell egg and shell egg food products industry by implementing inspection and audit criteria for shell eggs and shell egg food products to ensure safe and wholesome shell eggs and shell egg products are marketed in the state.

This proposal will promote safe handling of shell eggs and shell egg food products by the industry workers as the Department will conduct an inspection of the premises where egg-laying hens are housed and where shell eggs are produced and processed in accordance with section 1350 of Title 3 of the California Code of

Regulations. This proposal will serve to ensure farms and facilities have mechanisms in place to prevent, mitigate and control the spread of Salmonella infection or salmonellosis, which is a bacterial disease of the intestinal tract in humans and animals. *Salmonella enteritidis* (SE) is the contamination of shell eggs during egg production. Salmonella is a group of bacteria that cause typhoid fever, food poisoning, gastroenteritis, enteric fever and other illnesses. People become infected mostly through contaminated water or foods, especially meat, poultry and eggs. Salmonella can be fatal to persons with weakened immune systems, or to infants and children in some cases, but some severe cases can be effectively treated with antibiotics. Salmonella live in the intestines of birds, animals and humans. Most human infections are caused by eating food or drinking water that has been contaminated by feces (excrement). The most common ways of contracting Salmonella are from (1) uncooked meat and poultry; (2) uncooked eggs — Salmonella can be present in the eggs when laid if the chicken is infected; or, (3) lack of hygiene — kitchen surfaces that are not kept clean, lack of hand washing procedures during food preparation or handling raw meats or poultry. A person with contaminated hands can pass the infection on to other people by touching them, or touching surfaces which others then touch.

Therefore, in order to assist registered egg registrants with implementing SE prevention measures on farms and facilities and to serve to ensure compliance with the Department's statutes and regulations for shell egg food safety, the Department must clarify and specify the records, invoices, and all related documents that the Department or a certifying agent [e.g., United States Department of Agriculture (USDA) inspectors, contracted employees, and other authorized governmental representatives] will need to access during their audits and inspections. The Department routinely works with federal inspectors from the USDA and contracts with county inspectors and other state and federal governmental officials to perform inspections of the containers of shell eggs and egg food products that are intended for human consumption. The same inspectors would need access to not only the records, invoices and documents, but also the premises where the egg-laying hens are housed.

The above determinations are based on the fact this regulatory proposal is necessary for the prevention and mitigation of any potential outbreaks of food borne illnesses, such as Salmonella, in shell eggs and shell egg food products in accordance with sections 27521, 27531, and 27541 of the Food and Agricultural Code and section 1350 of Title 3 of the California Code of Regulations.

Occupations/Businesses Impacted: The Department has made an initial determination that this regulatory

proposal will impact all persons required to be registered with the Department as an egg producer or egg handler, or any out-of-state egg producer or egg handler selling eggs in California pursuant to section 27541 of the Food and Agricultural Code.

Business Reporting Requirement: The regulation does not require a report, which shall apply to businesses.

Comparable Federal Regulations: This proposal does not duplicate or conflict with federal regulations. The Department believes this proposal is consistent with federal standards and necessary to reduce the occurrence of SE in shell eggs that are marketed to California consumers. There are related federal regulations concerning disease control and flock management in poultry under 7 CFR sections 56.76 and 56.77, 9 CFR Parts 56, 145, 146 and 147 and 21 CFR Parts 16 and 118.

## CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. This regulatory proposal is necessary for the prevention and mitigation of any potential outbreaks of food borne illnesses, such as Salmonella, in shell eggs and shell egg food products in accordance with sections 27521, 27531, and 27541 of the Food and Agricultural Code and section 1350 of Title 3 of the California Code of Regulations.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the hearing (if a hearing is requested) or during the written public comment period.

## INITIAL STATEMENT OF REASONS AND INFORMATION

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

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained by contacting the persons named below or by accessing the Department of Food and Agriculture's website as indicated below in this Notice.

**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 persons named below.

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

**CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulations, or any written comments concerning this proposal are to be addressed to the following:

Anthony S. (Tony) Herrera, Egg Quality Manager  
Department of Food and Agriculture  
Meat, Poultry, and Egg Safety Branch  
Egg Safety and Quality Management Program  
1220 N Street  
Sacramento, CA 95814  
Telephone: (916) 900-5004  
E-mail: [tony.herrera@cdfa.ca.gov](mailto:tony.herrera@cdfa.ca.gov)

The backup contact person is:

Nancy Grillo, Regulation Coordinator  
Department of Food and Agriculture  
Animal Health & Food Safety Services  
1220 N Street  
Sacramento, CA 95814  
Telephone (916) 900-5033  
E-mail: [nancy.grillo@cdfa.ca.gov](mailto:nancy.grillo@cdfa.ca.gov)

Website Access: Materials regarding this proposal can be found by accessing the following Internet address: <http://www.cdfa.ca.gov/ahfss/regulations.html>.

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

The Department of Food and Agriculture (Department) proposes to amend section 4603, Schedule of Charges, by amending subsection (i), pertaining to service charges for Phytosanitary Certification in Title 3, Division 4, of the California Code of Regulations.

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

**PUBLIC HEARING**

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

**WRITTEN COMMENT PERIOD**

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov). The written comment period closes at 5:00 p.m. on June 15, 2015. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Stephen Brown  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street, Room 240  
Sacramento, CA 95814  
[sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov)  
916.654.1017  
916.654.1018 (FAX)

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

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

Existing state law provides that the Department, for the purpose of enhancing the state's business and trade opportunities, may perform non-regulatory services such as export market phytosanitary certification. The Department may also establish charges sufficient to recover its costs for providing non-regulatory services (Food and Agricultural Code (FAC), section 5851). Existing law also provides that the Department may establish, by regulation, a schedule of charges to cover the Department's costs for the specific services it provides such as export market phytosanitary activities (FAC, section 5851). Existing law also provides that regulations establishing charges adopted by the Secretary shall not be subject to review, approval, or disapproval by the Office of Administrative Law (FAC, section 5852).

Existing federal regulation establishes that states may charge to recover their costs for providing federal phy-

tosanitary certification services, including the delivery, support and administrative costs, divided by the number of certificates issued to develop a “cost-per-certificate” (Code of Federal Regulations, Title 7, Chapter III, section 354.3(5) [7 CFR § 354.3(5)]).

The proposed action will amend section 4603, Schedule of Charges, subsection (i), the Department’s schedule of charges for providing phytosanitary certification services for both the state and federal certificates issued in California, except those issued directly by the United States Department of Agriculture staff, by removing the July 15, 2015 “sunset clause.” The effect of the proposed amendment will be to provide continued authority for the Department to recover its costs for providing such non-regulatory services.

There is no existing, comparable federal regulation or statute.

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

#### DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

The Department has made an initial determination that the proposed action will not affect housing costs.

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

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

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

The proposed regulation may affect small business.

Cost impacts on a representative private person or business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. However, a representative private person or business would incur costs of \$5.30 per phytosanitary certificate issued and \$125 annually to participate under the terms of a Master Permit should they request these services.

#### Anticipated Benefits from This Regulatory Action

##### **Statutory Benefits**

Existing law finds that the planned production of trees (FAC section 22), bushes, ornamental plants, floricultural crops, and other horticultural crops (FAC subsection 23(a)) and plants growing in native stands or planted for ornamental purposes that contribute to the environmental and public health and welfare needs of the people of the state (FAC section 24.5) and shall be considered a branch of the agricultural industry of the state for the purposes of any law which provides for the benefit or protection of the agricultural industry of the state.

Existing law, FAC section 24, states that, as a matter of legislative determination, “the provisions of this section are enacted in the exercise of the power of this state for the purpose of protecting and furthering the public health and welfare. It is further declared that the floriculture and nursery industry of this state is affected with a public interest, in that, among other things:

(a) The production, processing, manufacture, and distribution of floriculture and nursery products constitute a paramount industry of this state which not only provides substantial and required revenues for the state and its political subdivisions by tax revenues and other means, and employment and a means of livelihood for many thousands of its population, but also furnishes substantial employment to related industries that are vital to the public health and welfare.”

Existing law FAC section 401, states the department shall promote the agricultural industry of the state. FAC section 401.5 states the department shall also seek to enhance, protect, and perpetuate the ability of the private sector to produce food and fiber in a way that benefits the general welfare and economy of the state. The department shall also seek to maintain the economic well-being of agriculturally dependent rural communities in this state.

The Legislature finds and declares all of the following (FAC section 5850):

- Enhancing global business and trade is in the economic interest of the state.
- Domestic and foreign country quarantine and product quality requirements must be met to allow for the trade of many agricultural products.
- Currently, to be acceptable to other states and foreign governments, phytosanitary product certification must be performed by an impartial, third-party governmental agency.

It is the intent of the Legislature, in enacting this article, to enhance the state’s business and trade opportunities by authorizing the department to do all of the following (FAC section 5851):

- Perform nonregulatory services such as export market phytosanitary certification relating to nursery stock, plants, seed, or plant pests and diseases.
- Establish charges sufficient to recover its costs for nonregulatory services such as export market phytosanitary activities.

The amendment of this regulation helps achieve the above statutes.

**Who Will Benefit.**

The pest prevention system helps prevent the following:

- Direct damage to the agricultural industry in California.
- Indirect damage to the agricultural industry due to the implementation of quarantines by other countries and loss of export markets.
- Increased production costs to the affected agricultural industries.
- Increased pesticide use by the affected agricultural industries.
- Increased costs to the consumers for agricultural commodities.
- Increased pesticide use by homeowners and others.
- The need to implement unnecessary federal regulations for the entire state if exotic pests are introduced.

The implementation of the regulation will also help benefit Californians in the following ways:

- Protection of homeowners and community gardens that grow their own fruits for consumption and susceptible ornamental plantings in various rural and urban landscapes.
- Protection of natural vistas, public and private parks and open space.
- Improvement of the state's economy by facilitating foreign and interstate agricultural commerce.

The amendment of this regulation benefits the cut flower and greens, fruit, nut, vegetable, timber, nursery and other agricultural industries, which are exporters to foreign markets and/or engage in interstate commerce to states with quarantine requirements which have to be met and require phytosanitary certificates.

**Other Benefits**

Helps provide phytosanitary export services via establishment and maintenance of pest free areas and trade facilitation. Helps maintain robust inspection and certification efforts in California to achieve the highest possible volume of agricultural exports.

**Non-monetary Benefits**

Helps maintain conformity and consistency within the state's agricultural export program.

Results of the Economic Analysis

The amendment of these regulations will not:

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

This amendment is for an existing on-going cost-recovery program for services rendered. The Department is not aware of specific benefits to public safety or worker safety. The Department is not aware of any specific benefits to the health of California residents or the welfare and economic well-being of California residents.

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to amend section 4603(i) pursuant to the authority vested by sections 407, 5851 and 5852 of the FAC.

REFERENCE

The Department proposes to amend section 4603(i) to implement, interpret and make specific sections 5851 and 5852 of the FAC.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room 240, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail:

sbrown@cdfa.ca.gov. In his absence, you may contact Sara Khalid at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Website ([www.cdfa.ca.gov/phpps/Regulations.html](http://www.cdfa.ca.gov/phpps/Regulations.html)).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

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

**TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

Construction Safety Orders  
Section 1710

**Multi-Story Skeletal Steel Construction — Metal Decking Replacement (Horcher)**

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **June 18, 2015**, in the **Auditorium of the State Resources Building, 1416 9<sup>th</sup> Street, Sacramento, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

Any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. The written comment period commences on **May 1, 2015** and closes at 5:00 p.m. on **June 18, 2015**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

- By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or
- By fax at (916) 274-5743; or
- By e-mail sent to [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov).

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking was initiated from a Division of Occupational Safety and Health (Division) memorandum to the Board, dated May 27, 2014. The Division noted that Federal OSHA construction standard [Section 1926.754(e)(5)] contains specific requirements for securing metal decking during the steel erection process. Title 8, Section 1710 does not have requirements as effective as Federal OSHA to secure decking from accidental displacement. The proposed amendments to Section 1710(l) would provide fall protection by requiring metal decking to be secured to prevent movement and ensure metal decking panels are fully supported by structural members.

The proposed amendment ensures that California is at least as effective as (ALAEA) the federal standard that pertains to the installation of metal decking. The

proposal provides specific instructions for the placement and support of flooring on multi-story steel framed structures.

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated regulations addressing Safety Standards for Steel Erection; Final Rule, on January 18, 2001, as 29 Code of Federal Regulations, Part 1926, Section 1926.754(e)(5). The Board is relying on the explanation of the provisions of the federal regulations in Federal Register, Volume 66, No. 12, pages 5196–5280, January 18, 2001, as the justification for the Board’s proposed rulemaking action. The Board proposes to adopt a regulation which is the same as the federal regulation except for format differences.

The proposed regulation is substantially the same as the final rule promulgated by Federal OSHA. Therefore, Labor Code Section 142.3(a)(3) exempts the Board from the provisions of Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5, Part 1, Division 3 of Title 2 of the Government Code when adopting a standard substantially the same as a federal standard; however, the Board is still providing a comment period and will convene a public hearing. The primary purpose of the written and oral comments at the public hearing is to:

1. Identify any clear and compelling reasons for California to deviate from the federal standards; and
2. Identify any issues unique to California related to this proposal which should be addressed in this rulemaking and/or a subsequent rulemaking.

The responses to comments will be available in a rulemaking file on this matter and will be limited to the above areas.

The specific change is as follows:

This proposed rulemaking adopts the federal language verbatim for the installation of metal decking. This will align Title 8, Construction Safety Orders with the federal construction standard and assures that the placement of metal decking is secured and fully supported by structural members.

This proposed rulemaking action is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the state’s regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupa-

tional safety and health rulemaking be channeled through a single entity (the Standards Board).

#### DOCUMENTS RELIED UPON

1. Division’s Form 9 to the Board, dated May 27, 2014.

2. Federal Register, Vol. 66, No. 12, pp. 5196–5280, January 18, 2001.

This document is available online at the Federal OSHA website: [https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_id=16290&p\\_table=FEDERAL\\_REGISTER](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=16290&p_table=FEDERAL_REGISTER).

3. 29 CFR (Code of Federal Regulations), Part 1926, Subpart R, Section 1926.754.

This document is available online at the Federal OSHA website: [https://www.osha.gov/pls/oshaweb/owadis.show\\_document?p\\_table=STANDARDS&p\\_id=12745](https://www.osha.gov/pls/oshaweb/owadis.show_document?p_table=STANDARDS&p_id=12745).

4. Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2013.

This document is available online at the Bureau of Labor Statistics website: <http://www.bls.gov/oes/current/oes472221.htm>.

5. Bureau of Labor Statistics, Occupational Employment Statistics, May 2013 State Occupational Employment and Wage Estimates.

This document is available online at the Bureau of Labor Statistics website: [http://www.bls.gov/oes/current/oes\\_ca.htm#49-0000](http://www.bls.gov/oes/current/oes_ca.htm#49-0000).

These documents are also available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

#### COST ESTIMATES OF PROPOSED ACTION

The OSHA preamble to 29 CFR Part 1926 final rule projects that after deducting costs incurred to achieve compliance with the final standard, this will result in net (or incremental) annualized costs of \$78.4 million for affected establishments. Among incremental annualized costs, expenditures for anchor bolts necessary for structural stability account for \$11.0 million, or 14 percent of the total costs. Therefore, OSHA anticipates that most small entities will experience minimal economic impact as a result of the implementation of this standard. Using available Bureau of Labor Statistics occupational employment data for comparison, Board staff has determined that California’s portion of the structural stability costs will be 19 percent of the nation-

al estimate and extrapolated the costs associated with this activity, unadjusted for inflation, will be less than \$2.1 million.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated. The proposed amendment adopts the federal language essentially verbatim to be consistent and ALAEA the federal standard. No economic impact is anticipated since the placement and security of metal decking is included in the cost of building construction.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) and the back-up contact person is Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

AVAILABILITY OF TEXT OF THE PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file, and all information that provides the basis for the proposed regulation, available for inspection and copying throughout the rulemaking process at its 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 regulation, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt

the proposed regulation without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

AVAILABILITY OF THE MEMORANDUM TO THE STANDARDS BOARD MEMBERS

Upon its completion, copies of the Memorandum may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its website. Copies of the text of the regulation in an underline/strikeout format and the Notice of Proposed Action can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.

**TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

Ship Building, Ship Repairing and Ship Breaking Orders  
Section 8397.4(b)  
**Water Supply — Access to Drinking Cups**

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **June 18, 2015**, in the **Auditorium** of the **State Resources Building, 1416 9th Street, Sacramento, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

Any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. The written comment period commences on **May 1, 2015**, and closes at

5:00 p.m. on **June 18, 2015**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By fax at (916) 274-5743; or

By e-mail sent to oshsb@dir.ca.gov.

#### AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards.

#### INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) intends to adopt the proposed rulemaking action pursuant to Labor Code Section 142.3, which mandates the Board to adopt regulations at least as effective as federal regulations addressing occupational safety and health issues.

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated regulations addressing General Working Conditions in Shipyard Employment on May 2, 2011, as 29 Code of Federal Regulations, Section 1915.88(b)(3). The Board is relying on the explanation of the provisions of the federal regulations in Federal Register, Volume 76, No. 84, pages 24576-24711, May 2, 2011, as the justification for the Board's proposed rulemaking action. The Board proposes to adopt a regulation which is the same as the federal regulation except for editorial and format differences.

The proposed regulation codifies requirements of each means of dispensing drinking water for consumption by employees.

In 2011, the Board adopted into Title 8, California Code of Regulations (CCR), the Occupational Safety and Health Standards for Shipyard Employment. Title 8, Section 8397.4 as adopted, included a reference to Title 8, Section 3363 of General Industry Safety Orders. The language was reviewed and approved by Federal OSHA Region IX in 2011.

Subsequent to the adoption, Federal OSHA Region IX representatives reexamined the regulation and deter-

mined the existing standard under Title 8, CCR, Section 8397.4 did not require "single use drinking cups" and "a sanitary receptacle" when water is dispensed from a "covered container".

Federal Representatives requested the Board to adopt language commensurate with 29 CFR 1915.88(b)(3). The proposed regulation would incorporate the requirements of 29 CFR 1915.88(b)(3) into Title 8, CCR Section 8397.4. The resulting standard would achieve regulatory compliance with "at least as effective as" provisions.

The proposed regulation is substantially the same as the final rule promulgated by Federal OSHA. Therefore, Labor Code Section 142.3(a)(3) exempts the Board from the provisions of Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5, Part 1, Division 3 of Title 2 of the Government Code when adopting a standard substantially the same as a federal standard; however, the Board is still providing a comment period and will convene a public hearing. The primary purpose of the written and oral comments at the public hearing is to:

1. Identify any clear and compelling reasons for California to deviate from the federal standard; and
2. Identify any issues unique to California related to this proposal which should be addressed in this rulemaking and/or a subsequent rulemaking.

The responses to comments will be available in a rulemaking file on this matter and will be limited to the above areas.

The specific change is as follows:

Allows the employers to provide single-use bottled water to employees or provide single use drinking cups if dispensed from a common container.

This proposed rulemaking action is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

#### DOCUMENTS RELIED UPON

1. Federal Register, Vol. 76, No. 84, pp. 24576-24711, May 2, 2011.

This document is available online at the Federal OSHA website: <http://www.gpo.gov/fdsys/pkg/FR-2014-09-26/pdf/2014-22816.pdf>.

This document is also available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

**COST ESTIMATES OF PROPOSED ACTION**

Federal OSHA's estimate of compliance costs are found at Federal Register, Vol. 76, No. 84, May 2, 2011, starting at page 24577.

Federal OSHA reviewed the cost of complying and determined in Table 4 that there is no additional cost.

TABLE 4—REVISIONS AND NEW REQUIREMENTS WITH NO MAJOR COST IMPACTS	
Subpart F revisions and new requirements	OSHA analysis
<p>§1915.88(b)(3) The employer must dispense drinking water from a fountain, a covered container with single-use drinking cups stored in a sanitary receptacle, or single-use bottles. The employer must prohibit the use of shared drinking cups, dippers, and water bottles.</p>	<p>The standard expands existing §1910.141(b)(1)(iii) to also allow employers to provide potable water in single-use bottles. The standard should not impose additional costs; rather, it provides employers with greater flexibility in meeting the existing requirement.</p>

Federal OSHA omitted from their cost impacts of dispensing water from a covered container with single-use drinking cups within their "OSHA analysis." "The standard should not impose additional costs; rather it provides employers with greater flexibility in meeting the existing requirements" is the rationale Federal OSHA uses for their conclusions, that there are no "additional costs" when providing potable water in single-use bottles. Using the same rationale, the option to provide water through a covered container with single-use drinking cups dispensed from a sanitary receptacle similarly expands the means to comply with existing requirements and as such does not mandate additional costs.

Federal OSHA has also certified that the rule will not have a significant impact on a substantial number of small entities.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

**SMALL BUSINESS DETERMINATION**

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated. The cost of compliance as referenced in the table above is less than 1% of the profits for small businesses affected.

**CONTACT PERSONS**

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) and the back-up contact person is Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

**AVAILABILITY OF TEXT OF THE PROPOSED REGULATIONS AND RULEMAKING FILE**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its 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, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

AVAILABILITY OF THE MEMORANDUM TO  
THE STANDARDS BOARD MEMBERS

Upon its completion, copies of the Memorandum may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format and the Notice of Proposed action can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.

**TITLE 10. OFFICE OF TOURISM**

The Office of Tourism (the "Office") proposes to amend the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Office has not scheduled a public hearing for this proposed action. However, if it receives a written request for a public hearing from any interested person or his or her authorized representative no later than 15 days before the close of the written comment period, the Office will conduct a public hearing on this proposed action and will notify all interested parties of the date, time, and location of the hearing pursuant to Government Code section 11346.8(a). Pursuant to California Government Code section 11343.4(b)(3), the Office intends to request that, if approved, these regulations become effective immediately upon their submission to the California Secretary of State.

WRITTEN COMMENT PERIOD AND  
SUBMITTAL OF COMMENTS

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Office at the address below. Comments may also be submitted by email to [regcomments@weintraub.com](mailto:regcomments@weintraub.com). The written comment period closes at **5:00 p.m. on June 15, 2015**. The Office will only consider comments received at the Law Offices of Weintraub | Tobin, outside counsel to the Travel and Tourism Commission, by that time. Submit comments to:

Weintraub | Tobin  
Attn: Scott M. Plamondon  
400 Capitol Mall, 11<sup>th</sup> Floor  
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Government Code Section 13995.69(c) authorizes the Office to adopt these proposed regulations. The proposed regulations properly revise obsolete term references and make specific Sections 13995.20, 13995.65, and 13995.92 of the Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

The California Tourism Marketing Act was enacted in 1995, to increase California's share of the travel and tourism market (Government Code sections 13995 et. seq.). The legislation authorized self-imposition of an assessment by businesses that benefit from travel and tourism. It also authorized the establishment of a non-profit, public benefit corporation, the California Travel and Tourism Commission (CTTC) also known as Visit California. The statute became operative upon industry-wide approval in 1997 and the assessment program was initiated in 1998. As originally implemented, regulations were developed that required the Secretary of the Business, Transportation and Housing Agency (Secretary), based on a resolution adopted by the CTTC, to call a referendum and assesses businesses within the travel and tourism industry. However, in October 2011, under Assembly Bill 29, the Governor's Office of Business and Economic Development (GO-Biz) was created and under the Governor's Reorganization Plan No. 2 of 2012, existing programs, including the Office of Tourism and the CTTC were transferred to GO-Biz effective July 1, 2013. Consequently, certain terms and references like "Secretary" in the regulations for the Tourism Market Act under Title 10, Chapter 7.65, Section 5350-5358.1 became obsolete.

Further, in 2014, under Senate Bill (SB) 1119 Government Code Section 13995.92 was revised to require that the proposed assessment of the passenger car rental industry be set by the commission at a rate of no more than 3.5% and that such rate will generate no more than 60% of all expenditures set by the commission, as provided, and that the approved marketing plan of the commission be no less than \$50,000,000 per fiscal year. Given that the revised statute did not define "expenditures," the proposed regulations provide clarity to the statute.

The regulations proposed in this rulemaking action would correct portions of the regulations that refer to

obsolete terms. Further, the proposed regulations will modify the passenger car rental industry's assessment calculation to reflect and clarify the recent change in SB 1119.

Anticipated Benefits of the Proposed Regulation:

The proposed regulations will properly delete obsolete terms and ensure that Assessed Businesses (defined under Government Code Section 13995 et seq.) will have a clear understanding of methods and rates implemented in calculation of the assessment.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Office has conducted an evaluation of any other regulations on this area and has concluded that these are the only regulations concerning the California Tourism Marketing Act. Therefore, the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

DISCLOSURES REGARDING  
PROPOSED ACTION

The Office has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: No additional costs.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

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

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

Cost impacts on a representative private person or business:

While there is not a direct cost to private persons or businesses because of the revision to the regulations, the statute does effectively create a higher assessment rate that may be passed on to private persons or businesses by Assessed Businesses.

Significant effect on housing costs: None.

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

Effect on Small Business: The proposed regulations will not affect small businesses because they are primarily intended to remove references to a government entity which no longer exists and have no material impact on application of the regulations as they apply to small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision(a)(13), the Office must determine that no reasonable alternative it considered or that has been otherwise been identified and brought to the attention of the agency would be: (1) more effective in carrying out the purpose for which the action is proposed or (2) would be as effective and less burdensome to affected private persons than the proposed action, or (3) would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

RESULTS OF ECONOMIC IMPACT ANALYSIS

These proposed regulatory changes (1) will not affect the creation or elimination of jobs in California; (2) will not affect the creation or elimination of businesses in California; (3) will not affect the expansion of existing businesses in California; and (4) will benefit industry segments subject to the Tourism Marketing Act because they will remove outdated references to nonexistent state agencies, and otherwise cure ambiguities, thereby giving segments greater predictability and certainty in connection with calculating the amount of assessments, where those assessments must be submitted, and who to contact with any questions, comments or concerns about the assessment program. These proposed changes benefit the health and welfare of California residents by, among other things, bringing tourism revenue to the State which creates and maintains jobs within California.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Weintraub|Tobin  
Attn: Scott M. Plamondon  
400 Capitol Mall, 11<sup>th</sup> Floor  
Sacramento, CA 95814

Alternatively, the backup contact is:

Visit California  
Attn: Matthew Sabbatini  
555 Capitol Mall, 11<sup>th</sup> Floor  
Sacramento, CA 95814

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, or other information upon which the rulemaking is based to Scott M. Plamondon at the above address.

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

Weintraub | Tobin will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by downloading them at <http://californiatourism.ca.gov/About> or contacting Scott M. Plamondon at the above address or at [regcomments@weintraub.com](mailto:regcomments@weintraub.com).

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

After considering all timely and relevant comments received, the Office of Tourism may adopt the proposed regulations substantially as described in this notice. If the Office of Tourism makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Office of Tourism adopts the regulations as revised. Please send requests of any modified regulations to the attention of Scott M. Plamondon at the address indicated above. The Office of Tourism will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT  
OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Scott M. Plamondon at the address above.

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations can be accessed on the website at <http://californiatourism.ca.gov/About>.

**TITLE 14. BOARD OF FORESTRY  
AND FIRE PROTECTION**

**“WORKING FOREST MANAGEMENT PLAN”**

**Title 14 of the California Code of Regulations  
(14 CCR),**

**Division 1.5, Chapter 4, Subchapter 1, Article 1;  
Subchapters 4, 5 & 6, Articles 3, 6, 9, 13 and 14;  
Subchapter 7, Articles 2, 6.5, 6.95 and 7. Title 14  
of the California Code of Regulations (14 CCR),  
Division 1.5, Chapter 4.5.**

**Amend: §§ 895, 895.1, 913.11 [933.11, 953.11],  
916.5 [936.5, 956.5], 919.9 [939.9], 923 [943, 963],  
923.2 [943.2, 963.2], 923.3 [943.3, 963.3], 923.4  
[943.4, 963.4], 923.5 [943.5, 963.5], 923.9 [943.9,  
963.9], 929 [949, 969], 945.1, 1038, 1090.26, 1104.1,  
1115.3 and Board of Forestry Technical Rule  
Addendum Number 5: “Guidance on Hydrologic  
Disconnection, Road Drainage, Minimization of  
Diversion Potential, and High Risk Crossings”  
(1st Edition, revised 04/21/14)  
Adopt: §§ 1090.28 and 1094–1094.35**

NATURE OF PROCEEDING

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board will hold a public hearing on Wednesday, June 17, 2015, at its regularly scheduled meeting commencing at 8:00 a.m., at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1(b), writings that are public records pursuant to Government Code § 11125.1(a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regula-

tory action to the Board. The written comment period ends at 5:00 p.m. on Monday, June 15, 2015.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: Matt Dias  
Assistant Executive Officer  
P.O. Box 944246  
Sacramento, CA 94244–2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506–14  
1416 9<sup>th</sup> Street  
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653–0989

Written comments may also be delivered via e-mail at the following address:

publiccomments@BOF.ca.gov

**AUTHORITY AND REFERENCE**  
(pursuant to Government Code (GOV or GC)  
§ 11346.5(a)(2) and 1 CCR § 14)

Pursuant to the Authority vested by Sections 4551, 4551.5, 4552 and 4553 of the Public Resources Code (PRC) and to implement, interpret or make specific PRC §§ 752, 753, 4528.5, 4561, 4561.1, 4562.5, 4562.7, 4571, 4582.7, 4585–4588, 4593.10, 4597.19, 4597–4597.22, 4601, 4629.3, 21000(g), 21092 and 21160 (considered References), the Board is proposing action to adopt/ amend 14 CCR §§ 895, 895.1, 913.11 [933.11, 953.11], 916.5 [936.5, 956.5], 919.9 [939.9], 923 [943, 963], 923.2 [943.2, 963.2], 923.3 [943.3, 963.3], 923.4 [943.4, 963.4], 923.5 [943.5, 963.5], 923.9 [943.9, 963.9], 929 [949, 969], 945.1, 1038, 1090.26, 1090.28, 1094–1094.35, 1104.1, 1115.3 and

Board of Forestry Technical Rule Addendum Number 5: “Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings”.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

(pursuant to GOV 11346.5(a)(3)(A)–(D))

Pursuant to the Z’berg–Nejedly Forest Practice Act of 1973, PRC § 4511, *et seq.* the State Board of Forestry and Fire Protection (Board) is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

Public Resources Code Section 4551 requires the Board to adopt forest practice rules and regulations to, among other things, “. . . assure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish and wildlife, and water resources.”

Existing law (pursuant to the Z’Berg–Nejedly Forest Practice Act):

1. Prohibits, in general, any person from conducting timber operations unless a harvesting plan, such as a timber harvest plan (THP), or Nonindustrial Timber Management Plan (NTMP), has been prepared by a Registered Professional Forester (RPF) and approved by the Department of Forestry and Fire Protection (Department or CAL FIRE). THPs and NTMPs are considered the functional equivalent of an environmental impact report (EIR) under the California Environmental Quality Act (CEQA).
2. Authorizes a nonindustrial tree farmer (an owner of less than 2,500 acres of timberland) with the long-term objective of an unevenaged timber stand and sustained yield to file an NTMP with the Department.
3. Requires a nonindustrial tree farmer with an NTMP to file a Notice of Timber Operations (NTO) with the Department when he or she plans to harvest timber. The NTO is effective for a maximum of one year and includes information that indicates whether the harvesting complies with the Forest Practice Act and Forest Practice Rules and conforms to the approved NTMP.
4. Provides that the NTMP run with the land and be transferred from one landowner to the next. The NTMP has very strict and short timelines for a new landowner to assume the old landowner’s plan: if the new landowner does not formally assume the plan within 180 days, the plan is cancelled.

Laws on which the proposed action is based:

1. Assembly Bill (AB) 904 creates the Working Forest Management Plan (WFMP) program. The WFMP is a long-term forest management plan available to nonindustrial landowners (with less than 15,000 acres of timberland) if they commit to unevenaged management and sustained yield. It also obligates the Board to adopt regulations needed to implement the provisions of AB 904 by January 1, 2016.
2. AB 2239 establishes a uniform process to ensure that a person who acquires timberlands described in a WFMP or NTMP receive notice on how to assume the plan. It also gives discretion to (rather than mandates) the Department to cancel a WFMP or NTMP if the new landowner does not assume the plan within one year of receiving the notice.
3. SB 1345 corrects an erroneous cross-reference in PRC § 4597.22 to the regulations in the Forest Practice Rules describing the Southern Subdistrict of the Coast Forest District, which is excluded from the WFMP program.

The California State Board of Forestry and Fire Protection (Board) is proposing action:

1. To adopt an article of regulation (14 CCR Article 6.95, §§ 1094 through 1094.29 and 1094.31) to make specific the use of a Working Forest Management Plan (WFMP) and a Working Forest Harvest Notice pursuant to AB 904 chaptered in PRC §§ 4597-4597.16 and 4597.20-4597.21. Specifically, a person who intends to become a working forest landowner, as defined, would be allowed to file a WFMP with the Department with the long-term objective of an unevenaged timber stand and sustained yield through the implementation of the Plan. It would require numerous provisions including the following:
  - A plan be prepared by a registered professional forester, be public record, and contain certain information.
  - The Department to provide a minimum period for public comment, dependent on the size of the lands under the WFMP.
  - The Department to determine if the plan is accurate, complete, and in proper order.
  - The Director to return the plan if the Director determines that the plan is not in conformance, as provided.
  - The working forest landowner who owns, leases, or otherwise controls or operates on all or any portion of any timberland within the boundaries of an approved plan and who harvests any of the timber during a given year to file a working forest harvest notice, as defined, with the Department in writing.
2. To adopt 14 CCR § 1094.32 to regulate the transition of an approved NTMP into a WFMP and the expansion of acreage associated with an approved WFMP pursuant to AB 904 chaptered in PRC § 4597.17.
3. To adopt 14 CCR § 1094.33 to suggest participants may also seek, simultaneously with the preparation of a WFMP, approval of a Safe Harbor Agreement from the Department of Fish and Wildlife (DFW) and that all review costs associated with the Safe Harbor Agreement Approval process incurred by DFW be paid from the Timber Regulation and Forest Restoration Fund pursuant to AB 904 chaptered in PRC § 4597.18.
4. To adopt 14 CCR §§ 1090.28 and 1094.34, which would allow restoration projects, required as a condition in an NTMP or WFMP, that have a significant public benefit, to be eligible for State restoration grant funding pursuant to AB 904 chaptered in PRC § 4597.19.
5. To adopt § 1094.35 to disallow the application of the WFMP in the Southern Subdistrict of the Coast Forest District pursuant to AB 904 chaptered in PRC § 4597.22. PRC § 4597.22 originally contained an incorrect reference and was subsequently corrected pursuant to SB 1345 chaptered in PRC § 4597.22.

6. To amend 14 CCR § 1090.26 and adopt 14 CCR § 1094.30 regarding the change of ownership of land described in either an NTMP or a WFMP pursuant to AB 2239 chaptered in PRC §§ 4593.10 and 4597.9. Note: The balance of AB 2239 chaptered in PRC §§ 4597.2, 4597.15 and 4597.16 are related to clean up of AB 904 and are reflected in 14 CCR §§ 1094.3, 1094.7 and 1094.31, respectively.
7. To amend existing Forest Practice Rules to incorporate reference to the WFMP into existing rules in 14 CCR §§ 895, 895.1, 913.11 [933.11, 953.11], 916.5 [936.5, 956.5], 919.9 [939.9], 923 [943, 963], 923.2 [943.2, 963.2], 923.3 [943.3, 963.3], 923.4 [943.4, 963.4], 923.5 [943.5, 963.5], 923.9 [943.9, 963.9], 929 [949, 969], 945.1, 1038, 1104.1, 1115.3 and Board of Forestry Technical Rule Addendum Number 5: “Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings” (1<sup>st</sup> Edition, revised 04/21/14).

The NTMP, from which the WFMP is modeled, was created by the Legislature in 1990 to allow landowners with no more than 2,500 acres to apply for a timber harvesting document that would allow for long-term approval with certain conditions, such as the use of uneven-aged forest management and proof that operations provide for sustained yield. The proposed WFMP program is similar to the NTMP program; however, it applies to nonindustrial landowners with less than 15,000 acres of timberland and contains stricter environmental standards.

Through an NTMP or WFMP, a nonindustrial timberland owner first prepares a management plan that is subject to a multi-agency review process and acts as the functional equivalent of an EIR under CEQA. The cost of preparing this management plan is greater than a typical THP, much of which is the result of the required sustained yield analysis. However, unlike a THP, which is good for no more than seven years, an NTMP and WFMP last in perpetuity and the additional cost is recaptured over time because subsequent harvest entries can be conducted under a much simpler notice to the Department that is tiered off of the NTMP or WFMP.

In the long-term, by relieving these landowners of some of the costs and burdens of meeting the regulatory requirements designed for industrial timber companies, NTMPs and WFMPs help keep ranches and other non-industrial forest properties economically viable and make them less likely to be subdivided for housing or converted into golf courses or vineyards. Additionally, incentivizing uneven-aged management may afford increased carbon sequestration, conservation of scenic

values, and protection of water quality and fish and wildlife habitat.

Today, NTMPs cover over 300,000 acres of California forests. Raising the acreage limit to 15,000 acres through the WFMP will make hundreds of thousands of additional timberland acreage eligible for long-term, sustainable management. A preliminary review of timberland ownership shows that there are at least 81 landowners who would qualify under the new WFMP program. Of these 81, at least 60 used even-aged management (i.e., clear cutting) at some point. These landowners would have an incentive to commit to long-term uneven-aged management under the WFMP.

Additionally, NTMP landowners who are close to the NTMP’s 2,500 acreage limit will have an incentive to purchase additional timberlands by transferring to the WFMP. Some NTMP landowners near the 2,500 acre limit have already indicated that they plan to acquire more timberlands if the WFMP program is enacted.

In 2003, CAL FIRE issued a report on the NTMP program. The report explained that the NTMP program provides significant benefits to the State in a number of terms including societal benefits.

- The report states that “[r]etaining our non-industrial private forest lands in forest use provides tremendous . . . benefits, including retention of open space, protection of watersheds, water quality and forest soils, maintenance of diverse habitat for fish and wildlife, preservation of important cultural and historical sites, and promotion of recreational opportunities.”
- “These benefits are all enhanced by the commitment of forest landowners to the long term stewardship and sustainable production requirements of an NTMP. On the broad statewide scale, the overarching public benefit is in encouraging owners of these small wooded parcels to take advantage of their rich forest soils, to enrich and improve their timber stands, to manage them sustainably into the future, and cumulatively retain that part of the state’s rural, working landscape that characterizes California’s private timberlands.”
- The 2003 report concluded that “the NTMP program is meeting the uneven-aged management requirement of the Forest Practice Act . . . [and given] sufficient time to implement current NTMP management prescriptions, landowners will also be able to show that they are meeting the sustained yield requirement. Therefore, [CAL FIRE] has determined that the NTMP program is improving California’s timberlands and recommends that the program be continued.”

- Additionally, the report recommended that the NTMP acreage limit be increased to bring more timberlands into the program. “This change would benefit both landowners and the state by providing an opportunity for these additional timberlands to be placed into a sustained yield and uneven-aged management regime.” This proposed action essentially implements this recommendation by allowing larger nonindustrial timberland owners to participate in the WFMP program.

In conclusion, the primary purpose of the proposed action is to create the Working Forest Management Plan (WFMP) program, based on the model of the Nonindustrial Timber Management Plan (NTMP) program, to provide nonindustrial landowners (with less than 15,000 acres of timberland) greater opportunities for cost-effective timber management than currently exist through the application of a timber harvesting document that would allow for long-term approval with certain conditions, such as the use of unevenaged forest management and proof that operations provide for sustained yield and stricter environmental standards (relative to the NTMP). Raising the acreage limit to 15,000 acres through the WFMP will make hundreds of thousands of additional acres of timberland eligible for long-term, sustainable management. The benefits of which include:

- Making non-industrial forest properties more economically viable.
- Incentivizing unevenaged management, which may afford increased carbon sequestration, conservation of scenic values and protection of water quality and fish and wildlife habitat.
- Incentiving the purchase of additional timberlands.

Other benefits may or may not result. These beneficial effects upon the environment could be related to fire resiliency, habitat, aesthetics, carbon sequestration and decreased timberland conversion. However, these prospective benefits are speculative, but it may be presumed, at a minimum, that the level of protective effect upon the environment will not be reduced as a result of the proposed action. The proposed action is not expected to have an effect upon the health and welfare of California residents, worker safety, the prevention of discrimination, or the promotion of fairness or social equity. Neither is the proposed action expected to result in an increase in the openness and transparency in business and government.

There is no comparable federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to GOV § 11346.5(a)(3)(D). State regulations related to the pro-

posed action were, in fact, relied upon in the development of the proposed action, including portions of Title 14 of the California Code of Regulations (§§ 895, 895.1, 912.7 [932.7, 952.7], 913.2, 913.11 [933.11, 953.11], 916.3, 916.4 [936.4, 956.4], 916.5 [936.5, 956.5], 919.9 [939.9], 919.11, 923 [943, 963], 923.2 [943.2, 963.2], 923.3 [943.3, 963.3], 923.4 [943.4, 963.4], 923.5 [943.5, 963.5], 923.9 [943.9, 963.9], 929 [949, 969], 945.1, 1032.9, 1032.10, 1035–1035.4, 1037.5, 1038, 1054, 1071, 1090–1090.28, 1092, 1093, 1094–1094.35, 1104.1, 1115.3, 15380(d), GOV § 6254.7, and Board of Forestry Technical Rule Addendum Number 5: “Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings”) to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to the implementation of the Z’Berg–Nejedly Forest Practice Act and found no existing State regulations that meet the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Forest Practice Rules and the Z’Berg–Nejedly Forest Practice Act.

The following document is incorporated by reference:

“A Guide to Wildlife Habitats in California.” California Department of Fish and Wildlife, 1988.

**MANDATED BY FEDERAL LAW  
OR REGULATIONS**

The proposed action is not mandated by federal law or regulations.

The proposed action neither conflicts with, nor duplicates Federal regulations.

There are no comparable Federal regulations for timber harvesting on State or private lands.

**OTHER STATUTORY REQUIREMENTS  
(pursuant to GOV § 11346.5(a)(4))**

There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

**LOCAL MANDATE  
(pursuant to GOV § 11346.5(a)(5)).**

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

FISCAL IMPACT  
(pursuant to GOV § 11346.5(a)(6))

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Regarding costs or savings to any State agency, according to the Senate Appropriations Committee, the following costs and savings are projected:

1. One-time costs of at least \$150,000 from the Timber Regulation and Forest Restoration Fund to the Board of Forestry for the development of regulations as required by AB 904.
2. One-time costs of approximately \$75,000 from the Timber Regulation and Forest Restoration Fund to the regional water quality control boards (RWQCBs) for adoption and revision of general waste discharge requirements.
3. Assuming five WFMPs are submitted each year, annual costs of approximately \$500,000–\$750,000 in fiscal year (FY) 2014–15 and growing to \$600,000 to \$950,000 in FY 2018–19, from the Timber Regulation and Forest Restoration Fund to CAL FIRE, Department of Fish and Wildlife, the RWQCBs, and Department of Conservation for the approval, then ongoing review, of WFMPs. This cost will at least be partially offset by a decrease in timber harvest plans (THPs) and Nonindustrial Timber Management Plans (NTMPs) submitted.
4. CAL FIRE and the reviewing agencies will all incur costs in the review of a WFMP application, the review of harvest notices, and the five-year review of an approved WFMP. The costs to the agencies depend on the number of plans submitted and approved as well as the complexity of those plans.
5. Based on a February 2013 report from the Natural Resources Agency and CalEPA that was required by AB 1492, the Resources Agency, CAL FIRE, DFW, SWRCB, and DOC collectively need approximately \$25 million annually and 193 positions to review all discretionary harvest permits (THPs, NTMPs, etc.) received each year. The actual cost to review each THP can vary greatly depending on factors such as the quality of the plan submitted, the size of the plan, and the complexity of the plan. Based on the number of permits submitted in 2011–12, Department staff estimates that the average cost of reviewing a THP is in the high tens of thousands.

6. Staff assumes the workload involved in reviewing and approving a WFMP will be 25–50% higher than a THP because a WFMP allows harvesting indefinitely. Assuming five plans are submitted annually, this proposed action will likely result in costs to the reviewing agencies in the range of the mid to high hundreds of thousands of dollars. Once a WFMP is approved, the reviewing agencies will incur ongoing costs to review harvest notices and to conduct the five-year review. Each WFMP is likely to result in costs collectively across the review agencies of a couple of thousands of dollars annually. Continuing with the assumption of five WFMPs submitted annually, at the end of a five-year period, there will be review costs in the low hundreds of thousands of dollars.
7. Staff notes that aside from the initial costs of regulatory development for the WFMP program, the initial and ongoing costs caused by the proposed action may be at least partially offset by a decrease in THPs, depending on the extent that a WFMP supplants the submission of THPs. The extent to which a WFMP supplants THP submission is speculative.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings in federal funding to the State.

HOUSING COSTS  
(pursuant to GOV § 11346.5(a)(12))

The proposed action will not significantly affect housing costs.

SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT DIRECTLY AFFECTING  
BUSINESS, INCLUDING ABILITY TO COMPETE  
(pursuant to GOV §§ 11346.3(a) and 11346.5(a)(7))

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

Pursuant to GOV § 11346.5(a)(8), the agency shall provide in the record facts, evidence, documents, testimony, or other evidence upon which the agency relies to support this initial determination:

The proposed action does not affect small business as defined in GOV § 11342.610 based upon the fact that the WFMP program to be established by the proposed action is voluntary.

**STATEMENTS OF THE RESULTS OF THE  
ECONOMIC IMPACT ASSESSMENT (EIA)**

The results of the economic impact assessment are provided below pursuant to GC § 11346.5(a)(10) and prepared pursuant to GC § 11346.3(b)(1)(A)–(D). The proposed action: (A) will not create or eliminate jobs within California; (B) will not create new businesses or eliminate existing businesses within California; or (C) will not affect the expansion of businesses currently doing business within California. (D) It may be speculated that the proposed regulation could benefit the environment as described in the Informative Digest, but it is not expected to affect the health and welfare of California residents or improve worker safety.

**COST IMPACTS ON REPRESENTATIVE PERSON  
OR BUSINESS**

(pursuant to GOV § 11346.5(a)(9))

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The WFMP is a voluntary rather than a compulsory permitting process available for use at the discretion of nonindustrial timberland owners. In comparison to a conventional Timber Harvesting Plan (THP), the WFMP will be more costly (all else being equal). However, unlike a THP, which is good for no more than seven years, a WFMP lasts in perpetuity and the additional cost is recaptured over time because subsequent WFMP harvest entries can be conducted under a much simpler notice to the Department that is tiered off of the WFMP.

**BUSINESS REPORT**

(pursuant to GOV §§ 11346.5(a)(11) and 11346.3(d))

The proposed action does not impose a business reporting requirement.

**SMALL BUSINESS**

(pursuant to 1 CCR 4(a) and (b))

Small business, within the meaning of GOV § 11342.610, is not expected to be affected by the proposed action because small business:

- (1) Is not legally required to comply with the regulation (the WFMP is a voluntary permitting process for timber harvesting);
- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation; and

- (4) Does not incur a detriment from the enforcement of the regulation.

**ALTERNATIVES INFORMATION**

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

**CONTACT PERSON**

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Matt Dias  
Assistant Executive Officer  
P.O. Box 944246  
Sacramento, CA 94244–2460  
Telephone: (916) 653–6634

The designated backup person in the event Mr. Dias is not available is Ms. Thembi Borrás, Regulations Coordinator. Ms. Borrás may be contacted at the above address or by phone at (916) 653–9633.

**AVAILABILITY OF STATEMENTS**

(pursuant to GOV § 11346.5(a)(16))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to GOV § 11346.5(b) and GOV § 11346.2(a)).

4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### FINAL STATEMENT OF REASONS

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

#### INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board web site at: [http://bofdata.fire.ca.gov/regulations/proposed\\_rule\\_packages/](http://bofdata.fire.ca.gov/regulations/proposed_rule_packages/).

### TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter “the Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held from 1 p.m.–3 p.m. on June 17, 2015 in the Sequoia Room at the Board’s offices at 2420 Del Paso Road, Sacramento, California, 95834. Written comments, including those sent by mail, facsimile, or e–mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its offices not later than 5:00 p.m. on June 17, 2015 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may

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

Authority and Reference: Pursuant to the authority vested by Sections 7312 of the Business and Professions Code, and to implement, interpret or make specific Section 35 of the Business and Professions Code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST

##### A. Informative Digest

###### **Amend Section 910**

Section 7312 of the Business and Professions Code gives the Board broad authority to set training and examination requirements for barbering and cosmetology students seeking licensure with the Board. Section 910 of the California Code of Regulations sets out the requirements that must be met to sit for the licensing examination by out-of-state applicants, including people working in the barbering and cosmetology professions on military installations. This regulatory proposal fulfills the mandate of Section 35 of the Business and Professions Code by setting the conditions under which veterans may use barbering and cosmetology training obtained in the military to qualify for the examination.

##### B. Policy Statement Overview/Anticipated Benefits of Proposal

Section 35 of the California Business and Professions Code states in part that “It is the policy of this state that, consistent with the provision of high-quality services, persons with skills, knowledge, and experience obtained in the armed services of the United States should be permitted to apply this learning and contribute to the employment needs of the state at the maximum level of responsibility and skill for which they are qualified. To this end, rules and regulations of boards provided for in this code shall provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the business, occupation, or profession regulated.” The anticipated benefit is that veterans of the armed forces will be able to reintegrate more quickly into civilian life by being able to use the skills they gained in the military.

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

After conducting a review for any regulations that would relate to or affect this area, the Board has eva-

uated this regulatory proposal and it is not inconsistent or incompatible with existing state regulations.

### FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

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

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation will not affect small businesses because it only concerns the ability to obtain a license to practice a profession.

### RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit veterans by helping their return to civilian life.

### CONSIDERATION OF ALTERNATIVES

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

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

### INITIAL STATEMENT OF REASONS AND INFORMATION

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

### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Contact Person named below.

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

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

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

### CONTACT PERSON

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

Name: Kevin Flanagan  
Address: 2420 Del Paso Road, Suite 100  
Sacramento, CA 95834  
Telephone No.: (916) 575-7100  
Fax No.: (916) 928-6810  
E-Mail  
Address: Kevin.Flanagan@dca.ca.gov

The backup contact person is:

Name: Patricia Garcia  
 Address: 2420 Del Paso Road, Suite 100  
 Sacramento, CA 95834  
 Telephone No.: (916) 575-7100  
 Fax No.: (916) 928-6810  
 E-Mail  
 Address: Patricia.Garcia@dca.ca.gov

Website Access: Materials regarding this proposal can be found at [http://www.barbercosmo.ca.gov/laws\\_regs/prop\\_regs.shtml](http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml).

**TITLE 16. BOARD OF BARBERING AND COSMETOLOGY**

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter “the Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held from 10 a.m.–12 p.m. on June 17, 2015 in the Sequoia Room at the Board’s offices at 2420 Del Paso Road, Sacramento, California, 95834. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its offices not later than 5:00 p.m. on June 17, 2015 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 7312, 7406 and 7407 of the Business and Professions Code, and to implement, interpret or make specific Sections 7406, 7407 and 7409 of said Code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Amend Section 974 of the California Code of Regulations.

Business and Professions Code, Section 7406 authorizes the Board to assess administrative fines for the violation of any rules and regulations adopted by the Board under this chapter. Business and Professions Code 7407 requires that the Board indicate that for each type of violation whether, in the Board’s discretion, the violation can be corrected. The Board recently made revisions to its health and safety regulations, which in turn require revisions to the fine schedule.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The new fines will help motivate licensees to follow the Board’s health and safety regulations and, in doing so, help protect the public. The changes in violation terminology will make the Board’s regulations easier for licensees to understand.

C. Consistency and Compatibility with Existing State Regulations

After conducting a review for any regulations that would relate to or affect this area, the Board has evaluated this regulatory proposal and it is not inconsistent or 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: It’s very difficult for the Board to quantify how much fine revenue might be raised as a result of the 8 new fines included in this proposal, but it estimates no more than \$324,000 a year would be raised.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

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

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

**EFFECT ON SMALL BUSINESS**

The Board has determined that the proposed regulation will not affect small businesses because it only concerns the ability to obtain a license to practice a profession.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:**

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will help protect the health and safety of consumers by motivating licensees to follow the laws and regulations of the Board of Barbering and Cosmetology.

**CONSIDERATION OF ALTERNATIVES**

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

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

**INITIAL STATEMENT OF REASONS AND INFORMATION**

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

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Contact Person named below.

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

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

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

**CONTACT PERSON**

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

Name: Kevin Flanagan  
Address: 2420 Del Paso Road, Suite 100  
Sacramento, CA 95834  
Telephone No.: (916) 575-7100  
Fax No.: (916) 928-6810  
E-Mail  
Address: Kevin.Flanagan@dca.ca.gov

The backup contact person is:

Name: Patricia Garcia  
Address: 2420 Del Paso Road, Suite 100  
Sacramento, CA 95834  
Telephone No.: (916) 575-7100  
Fax No.: (916) 928-6810  
E-Mail  
Address: Patricia.Garcia@dca.ca.gov

Website Access: Materials regarding this proposal can be found at [http://www.barbercosmo.ca.gov/laws\\_regs/prop\\_regs.shtml](http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml).

**TITLE 16. BUREAU OF SECURITY AND INVESTIGATIVE SERVICES**

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

**Department of Consumer Affairs**  
**2420 Del Paso Road, Yosemite Room**  
**Sacramento, CA 95834**  
**Monday, June 15, 2015**  
**10:00 a.m.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office no later than 5:00 p.m. on Monday, June 15, 2015 or must be received by the Bureau at the hearing. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 7515 and 7591.6 of the Business and Professions Code, and to implement, interpret or make specific Sections 7530, 7570, 7593.15, and 7599.70 of said Code, the Bureau is considering changes to Division 7 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

California Code of Regulations (CCR) Section 639

The Bureau needs to establish a processing fee through regulation for the assignment of a private investigator (PI) license pursuant to Business and Professions Code (BPC) Sections 7530 and 7570. BPC Section 7570(h) states that the fee may not exceed \$125. Therefore, the Bureau is seeking to set the fee at \$125 in this regulatory proposal. This will allow the Bureau to implement the newly enacted authority to assign a PI license.

CCR Section 641

The Bureau needs to establish a processing fee through regulation for the assignment of an alarm company operator (ACO) license pursuant to BPC Section 7599.70. BPC Section 7599.70(o) states that the fee may not exceed \$125. Therefore, the Bureau is seeking to set the fee at \$125 in this regulatory proposal. This will allow the Bureau to implement the newly enacted authority to assign an ACO license.

The following changes are being proposed:

Amend CCR Section 639 Private Investigator Fees

This Section is amended to add Subsection (f) which specifies that the fee for the assignment of a private investigator license is \$125 pursuant to BPC Sections 7530 and 7570.

Amend CCR Section 641 Alarm Company Operator and Agent Fees

This Section is amended to add Subsection (k) which specifies that the fee for the assignment of an alarm company operator license is \$125 pursuant to BPC Sections 7593.15 and 7599.70.

B. Policy Statement Overview/Anticipated Benefits of Proposal

CCR Sections 639 & 641

Adoption of the proposed amendment will enable the Bureau to implement the intended changes established by AB 1608 and SB 1077, resulting in licensing and business cost savings to PIs and ACOs, as well as smaller workloads for the Bureau. As a result, private investigation companies and alarm company operators will continue to conduct business without interruption, and the public will continue to benefit from their services, security and protection.

C. Consistency and Compatibility with Existing State Regulations

CCR Sections 639 and 641

During the process of developing these regulations and amendments, the Bureau 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.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

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

**AND**

The following studies/relevant data were relied upon in making the above determination:

This regulatory proposal is establishing the fee for the assignment of both private investigator and alarm company operator licenses pursuant to current law to allow private investigators and alarm companies to change their business structure more quickly and efficiently with the Bureau.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Bureau has determined that establishing an assignment fee for private investigators and alarm company operators so that they may change their business structure with the Bureau would not affect small businesses because this fee will be part of a more cost effective and efficient process to do so.

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Establishing an assignment fee for private investigator and alarm company operator licenses will enable them to change their business structure with the Bureau and will make the process more cost effective and efficient for these types of businesses.

Benefits of Regulation:

The Bureau has determined that this regulatory proposal will have the following benefits:

Establishing an assignment fee will benefit PIs and ACOs because it will result in a licensing cost savings. Being able to assign a license will allow the ACO or PI to continue doing business without the break that is currently required to process a new application. It will also allow the ACO or PI to maintain their original license number. The Bureau will benefit because it will reduce new license processing workloads. Also, the public will continue to benefit from the services, security and protection provided by private investigation companies and alarm company operators, therefore enhancing the

Board's mandate of promoting and protecting the interest of consumers.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS  
AND INFORMATION

The Bureau 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 person designated in the Notice under Contact Person or by accessing the Bureau's website at [www.bsis.ca.gov](http://www.bsis.ca.gov).

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: Carl Beermann,  
Policy and Administration Analyst  
Address: 2420 Del Paso Road, Suite 270  
Sacramento, CA 95834  
Telephone No.: 916-575-7072  
Fax No.: 916-575-7287  
E-Mail  
Address: [carl.beermann@dca.ca.gov](mailto:carl.beermann@dca.ca.gov)

The backup contact person is:

Name: Andrea Leiva,  
Policy and Administration  
Manager  
Address: 2420 Del Paso Road, Suite 270  
Sacramento, CA 95834  
Telephone No.: 916-575-7022  
Fax No.: 916-575-7287  
E-Mail  
Address: [andrea.leiva@dca.ca.gov](mailto:andrea.leiva@dca.ca.gov)

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

## TITLE 16. COURT REPORTERS BOARD OF CALIFORNIA

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

**Date:** June 18, 2015  
**Time:** 1:00 p.m.  
**Place:** 2535 Capitol Oaks Drive,  
Third Floor Conference Room  
Sacramento, CA 95833

Written comments, including those sent by mail, facsimile, or e-mail, should be addressed to the attention of Paula Bruning, who is listed as the contact person in this Notice, and must be received by the Board at its office not later than 5:00 p.m. on Thursday, June 18, 2015, or must be received at the hearing. The Court Reporters Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who

have requested notification of any changes to the proposal.

**Authority and Reference:** Pursuant to the authority vested by Sections 8007 and 8017 of the Business and Professions Code, and to implement, interpret or make specific Sections 8007 and 8017 of the Business and Professions Code and Section 2025.510 of the Code of Civil Procedure as follows:

### INFORMATIVE DIGEST

#### A. Informative Digest

This rulemaking action amends one subsection of the regulation to make it conform to the underlying Code of Civil Procedure subsection.

Code of Civil Procedure section 2025.510, subdivision (d) requires the reporter to notify all parties when either the full or partial transcript will be available to a specific party prior to the time the original or copy would be available to any other party. CCR section 2403(b)(3), as currently written, instructs that the scope of practice for reporters includes notifying all parties who attended a deposition of requests made by other parties for either an original or copy of the transcript, or any portion thereof. This amendment to CCR section 2403(b)(3) clarifies that a reporter's scope of practice includes notice to all parties specifically when there has been a request for an expedited transcript.

#### B. Policy Statement Overview/Anticipated Benefits of Proposal

This amendment seeks to dispel some expressed confusion of the regulation as written by clarifying that scope of practice includes notification of expedited requests for transcripts.

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

The Court Reporters Board has evaluated this regulatory proposal and has determined that it is neither inconsistent nor incompatible with existing state regulations.

### FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: Not Applicable.

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

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant

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

**AND**

The following studies/relevant data were relied upon in making the above determination: None.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

**EFFECT ON SMALL BUSINESS**

The Board has determined that the proposed amendment to the regulation would have no effect on small businesses.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

Impact on Jobs/Businesses:

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

Benefits of Regulation:

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

The regulation will help to protect the California consumer as it will make clear to all licensees the expectation concerning notification requirements when a request for expedited delivery is received.

**CONSIDERATION OF ALTERNATIVES**

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

posal described in this Notice or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

**INITIAL STATEMENT OF REASONS AND INFORMATION**

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

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and any document incorporated by reference and of the initial statement of reasons and all of the information upon which the proposal is based may be obtained at the hearing or prior to the hearing upon request from Paula Bruning at the Court Reporters Board of California, 2535 Capitol Oaks Drive, Suite 230, Sacramento, California 95833.

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

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

**CONTACT PERSON**

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

Name: Paula Bruning  
Address: 2535 Capitol Oaks Dr., Suite 230  
Sacramento, CA 95833  
Telephone No.: (916) 263-3660  
Fax No.: (916) 263-3664  
E-Mail  
Address: Paula.bruning@dca.ca.gov

The backup contact person is:

Name: Yvonne Fenner  
 Address: 2535 Capitol Oaks Dr., Suite 230  
 Sacramento, CA 95833  
 Telephone No.: (916) 263-3660  
 Fax No.: (916) 263-3664  
 E-Mail  
 Address: Yvonne.fenner@dca.ca.gov

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

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF HEALTH  
 CARE SERVICES**

**THE DEPARTMENT OF HEALTH CARE  
 SERVICES MAY EXTEND SUPPLEMENTAL  
 REIMBURSEMENT FOR QUALIFIED  
 NON-DESIGNATED PUBLIC HOSPITALS**

This notice is to provide information of public interest with respect to the proposed State Plan Amendment (SPA) 15-004 for supplemental reimbursement to specified non-designated public hospitals meeting requirements that provide services to Medi-Cal beneficiaries. The effective date for SPA 15-004 is July 1, 2015.

The Department of Health Care Services has federal authority through SPA 14-009, to make supplemental reimbursement for non-designated public hospitals meeting specified requirements and provide services to Medi-Cal beneficiaries. In anticipation of SPA 14-009 terminating June 30, 2015, the department is preparing SPA 15-004 to seek the continuation of federal authority to make supplemental reimbursement to non-designated public hospitals meeting specific criteria.

The proposed SPA is subject to approval by the Federal Centers for Medicare & Medicaid Services.

Any written comments concerning the proposed SPA may be mailed to Brie-Anne Sebastien, Chief, Medi-Cal Supplemental Payments Unit, Department of Health Care Services, Safety Net Financing Division, MS 4504, P.O. Box 997436, Sacramento, CA 95899-7436 or emailed to [Brie-Anne.Sebastien@dhcs.ca.gov](mailto:Brie-Anne.Sebastien@dhcs.ca.gov).

**DEPARTMENT OF HEALTH  
 CARE SERVICES**

**THE DEPARTMENT OF HEALTH CARE  
 SERVICES MAY EXTEND SUPPLEMENTAL  
 REIMBURSEMENT FOR QUALIFIED  
 PRIVATE HOSPITALS**

This notice is to provide information of public interest with respect to the proposed State Plan Amendment (SPA) 15-003 for supplemental reimbursement to specified private hospitals meeting requirements that provide services to Medi-Cal beneficiaries. The effective date for SPA 15-003 is July 1, 2015.

Currently, the Department of Health Care Services has federal authority through SPA 14-008, to make supplemental reimbursement for private hospitals meeting specified requirements and provide services to Medi-Cal beneficiaries. In anticipation of SPA 14-008 terminating June 30, 2015, the department is preparing SPA 15-003 to seek the continuation of federal authority to make supplemental reimbursement to qualified hospitals meeting specific criteria.

The proposed SPA is subject to approval by the Federal Centers for Medicare & Medicaid Services.

Any written comments concerning the proposed SPA may be mailed to Brie-Anne Sebastien, Chief, Medi-Cal Supplemental Payments Unit, Department of Health Care Services, Safety Net Financing Division, MS 4504, P.O. Box 997436, Sacramento, CA 95899-7436 or emailed to [Brie-Anne.Sebastien@dhcs.ca.gov](mailto:Brie-Anne.Sebastien@dhcs.ca.gov).

**DEPARTMENT OF TOXIC  
 SUBSTANCES CONTROL**

**Final Decision to Recertify  
 Hazardous Waste Environmental Technology**

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) has reached a final decision to recertify the following hazardous waste environmental technology:

The SCIGEN NEUTRALEX technology for treating aqueous formaldehyde in ten percent neutral buffered Formalin waste resulting from histopathology tissue specimen preservation and automated processor activities.

Applicant: SCIGEN, Inc.  
 333 East Gardena Blvd.  
 Gardena, California 90249

Section 25200.1.5., Health and Safety Code, authorizes DTSC to certify the performance of hazardous

waste environmental technologies. DTSC certifies only technologies which are determined to not pose a significant potential hazard to the public health and safety or to the environment when used under specified operating conditions.

Due to the current budget shortfall for the State of California, and associated budget uncertainty, DTSC is not accepting any new applications into its hazardous waste technology certification program. DTSC considers recertification requests for technologies already certified which have not changed their design, formulation, or operation.

The certification program provides an independent technical evaluation of technologies to identify those meeting applicable quality standards, so as to facilitate regulatory and end-user acceptance and to promote and foster growth of California's environmental technology industry.

DTSC makes no express or implied warranties as to the performance of the manufacturer's product or equipment. The end-user is solely responsible for complying with the applicable federal, state, and local regulatory requirements. Certification does not limit DTSC's authority to require additional measures for protection of public health and the environment.

By accepting certification, the manufacturer assumes, for the duration of certification, responsibility for maintaining the quality of the manufactured equipment and materials and their operation at a level equal to or better than was provided to obtain certification and agrees to be subject to quality monitoring by DTSC as required by the statute under which certification is granted.

DTSC's final decision to re-certify the Scigen Neutralex technology is based on a proposed decision which was subject to a public review and comment period.

During the comment period no comments were received.

DTSC has concluded that the Scigen Neutralex technology does not pose a significant potential threat to public health or the environment when used according to the manufacturer's instructions and the conditions in the certification.

Requests for additional information concerning this final decision should be submitted to the following address:

California Environmental Protection Agency  
Department of Toxic Substances Control  
Hazardous Waste Management Program  
P.O. Box 806  
1001 I Street, 11th Floor  
Sacramento, California 95812-0806  
Attn: Donn Diebert (916) 322-2505

## BACKGROUND

The Scigen Neutralex technology was originally certified effective June 29, 1997, for a three-year term.

The final decision to certify was published in the May 30, 1997, California Regulatory Notice Register, Volume 97, Number 22-Z. The original certification included a description of the technology, the certification statement and associated conditions and limitations, and the technical basis for the original certification decision.

These documents may be obtained from DTSC.

Following re-evaluations and proposed decisions with 30-day public comment periods, DTSC published final decisions to recertify the Neutralex technology for three-year terms effective June 10, 2001 and, after a one-year extension, March 25, 2005. The technology was recertified again on May 16, 2008 and again on May 1, 2011. Reports describing the basis for these recertification decisions are available from DTSC.

DTSC recently re-evaluated the Neutralex technology, and proposed to recertify the technology for an additional three-year term. The proposed decision was published in the California Regulatory Notice Register, March 6, 2015, Register 2015, Volume Number 10-Z. DTSC has reached a final decision to re-certify the Neutralex technology for an additional three-year term.

## EFFECT ON CURRENT CERTIFICATION STATUS

Pursuant to Title 22, California Code of Regulations, section 68100, the existing certification remained valid during the re-certification. The certification will remain in effect for an additional three-year period from the effective date of this final certification decision.

## BASIS FOR RECERTIFICATION

Previous recertification evaluations included laboratory testing of the effectiveness of Neutralex for treating ten percent neutral buffered formalin wastes, and discussions with end users. According to Scigen, the Neutralex technology has not changed since it was originally certified. For the current recertification evaluation, DTSC staff contacted ten more end users of the Neutralex technology to confirm previous information on its performance under the conditions of use at health care facilities. All were satisfied with the product. Most found the directions clear and followed them. None of the users contacted had any problems with the technology.

In earlier certification reviews, DTSC did extensive investigations and lab tests of the Neutralex product. The results were consistently positive. Later reviews

used customer interviews and again produced positive results. DTSC has not received nor is aware of any complaints or reports of problems with the Neutralex technology.

#### REGULATORY CONSIDERATIONS

Title 22, California Code of Regulations, Section 67450.20, specifies that treatment of formaldehyde by health-care facilities using any technology certified as effective for that purpose is authorized for operation under a grant of conditional exemption. The treatment must be operated pursuant to the conditions imposed on the certification. In addition, the generator conducting the treatment must comply with the conditions of the Conditional Exemption in Section 25201.5 of the Health and Safety Code. The reader should refer to these statutory and regulatory sections for additional information.

#### CERTIFICATION CONDITIONS

The conditions of the original certification, published in the May 30, 1997, California Regulatory Notice Register, Volume 97, Number 22–Z remain in effect.

#### CERTIFICATION REFERENCE

As a holder of a valid hazardous waste environmental technology certification, Scigen is authorized to use the certification seal (California Registered Service Mark Number 046720) during the term of the certification.

Scigen shall cite the certification number and date of issuance in conjunction with the certification seal whenever it is used. When providing information on the certification to an interested party, Scigen shall, at a minimum, provide the full text of the original and recertification decisions as published in the California Regulatory Notice Register.

#### DURATION OF THE CERTIFICATION

This recertification is effective thirty days from the publication date of this final notice, and will remain in effect until May 31, 2018 (a period of three years from its effective date), unless it is amended or revoked for cause.

## OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

### NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATION AND AUGMENTATION OF RECORD

#### TITLE 27, CALIFORNIA CODE OF REGULATIONS

#### PROPOSED SECTION 25904 LISTINGS BY REFERENCE TO THE CALIFORNIA LABOR CODE

As required by Government Code section 11346.8(c), and Title 1, Section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of additional changes to the proposed regulation to add section 25904 to Title 27 of the California Code of Regulations. As required by Government Code section 11346.8(c), and Title 1, Section 44 of the California Code of Regulations, OEHHA is giving notice of this revision.

This regulation was originally the subject of a Notice of Proposed Rulemaking published on January 31, 2014, in the California Regulatory Notice Register (Register 2014, No. 5–Z), which initiated a public comment period. Eight written public comments were received during the comment period that ended April 4, 2014. In addition, OEHHA heard comments at a public hearing on the proposed regulation held on March 21, 2014. On June 20, 2014, OEHHA published a Notice of Modification to Text of Proposed Regulation. The comment period closed on July 7, 2014. Three comments were received. On September 12, 2014, OEHHA published a Notice of Modification to Text of Proposed Regulation. The comment period closed on September 29, 2014. No comments were received during this comment period.

On January 15, 2015, the Office of Administrative Law (OAL) disapproved the proposed regulation for failing to comply with the clarity standard of Government Code section 11349.1. After careful consideration of the OAL determination, OEHHA decided to modify the proposed regulatory language in subsection (a)(1). Additionally, OEHHA considered stakeholder comments submitted in the regulatory process concerning subsection (a)(2) and modified the text to not include potential listing under the HCS as part of this proposed regulatory action. On February 27, 2015 OEHHA published a Notice of Modification to Text and Augmentation of Record. Two written comments were submitted during the comment period that closed on March 20, 2015.

OEHHA considered the comments from stakeholders and from OAL regarding the clarity of subsection (a)(1). OEHHA has modified the text to increase clarity and ensure consistency with the decision in *Styrene Information and Research Center v. Office of Environmental Health Hazard Assessment*, (2012) 210 Cal. App. 4th 1082. The modified text clearly excludes from listing any chemicals or substances classified by IARC as Group 2B based on limited evidence of carcinogenicity in experimental animals. Additionally, OEHHA considered the Second Interim Order in the *Sierra Club v. Schwarzenegger (Brown)* case (Case No. RG07356881). In the *Sierra Club* case, the court ordered OEHHA to list any chemical for which IARC has concluded there is “sufficient” evidence of cancer in humans or animals, including agents added to the IARC list of Agents Classified by the IARC Monographs, whether or not the final monograph has been published. To ensure compliance with this court order, OEHHA has modified the proposed text to include chemicals or substances classified by IARC as Group 1, 2, and 2B in the list of Agents Classified by the IARC Monographs.

OEHHA also further considered comments in the OAL disapproval decision letter concerning subsection (b). This subsection requires the lead agency to provide a 30-day public comment period prior to adding a chemical meeting the criteria for listing a chemical or substance with reference to the Labor Code section 6382(b)(1). In the proposed regulation, public comment must focus “on whether or not the chemical has been identified by reference in Labor Code section 6382 (b)(1).” According to the OAL decision of disapproval, the Initial Statement of Reasons (ISOR) expressly excludes comments related to the underlying scientific determinations supporting the identification. OAL concluded that this subsection lacked clarity because a person directly affected by the regulation would not understand that the regulation expressly excludes comments related to the underlying scientific determination. The regulation has been modified so as to accurately reflect OEHHA’s intent that was correctly expressed in the ISOR. The modified subsection thus excludes comments related to the underlying scientific determinations in support of the identification of the chemical or substance with reference in Labor Code section 6382(b)(1) as causing cancer because these listings are ministerial in nature.

The record is being augmented to include the Second Interim Order on Labor Code Claims from *Sierra Club v. Schwarzenegger (Brown)* (Case No. RG07356881); and is being augmented to include the decision in *SIRC v. OEHHA* (2012) 210 Cal. App. 4th 1082. Additionally, the record is being augmented to include the United States Occupational Safety & Health Administration (OSHA) “Side-by-Side Comparison of OSHA’s Exist-

ing Hazard Communication Standard (HCS 1994) vs. the Revised Hazard Communication Standard (HCS 2012)” published on the OSHA website at <https://www.osha.gov/dsg/hazcom/side-by-side.html>. These documents were relied upon by OEHHA during the development of this proposed regulation.

Included with this notice are copies of the proposed regulation with the modified language provided in underline and strikeout (June 20, 2014 amendments), double underline and double strikeout (September 12, 2014 amendments), italicized underline and italicized strikeout (February 27, 2015 amendments), and italicized double underline and italicized double strikeout (May 1, 2015) format to identify all changes to the originally proposed regulation. All these materials are also available on the OEHHA website at [www.oehha.ca.gov](http://www.oehha.ca.gov), and may be requested from Monet Vela of the OEHHA Legal Office at (916) 323-2517.

OEHHA will accept written comments on the additional amendments to the proposed regulation until **May 15, 2015, at 5:00 p.m.**

We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to [P65Public.comments@oehha.ca.gov](mailto:P65Public.comments@oehha.ca.gov). Please include “Labor Code” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the address below. Mailed, faxed or hand-delivered comments should be addressed to:

Monet Vela  
Office of Environmental Health Hazard Assessment  
P. O. Box 4010  
Sacramento, California 95812-4010  
Telephone: 916-323-2517  
Fax: 916-323-2610  
E-mail: [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov)

**DECISION NOT TO PROCEED**

**BOARD OF FORESTRY AND FIRE PROTECTION**

**Pursuant to Government Code section 11347  
Board of Forestry and Fire Protection  
“Working Forest Management Plan”  
Title 14 of the California Code of Regulations  
(14 CCR), Division 1.5, Chapter 4, Subchapter 1,  
Article 1; Subchapters 4, 5 & 6, Article 6;  
Subchapter 7, Articles 6.5 and 6.95**

Pursuant to Government Code Section 11347, the Board of Forestry and Fire Protection hereby gives no-

tice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register (CRNR), [Notice Published January 16, 2015].

The proposed rulemaking concerned creating the Working Forest Management Plan (WFMP) program, based on the model of the Nonindustrial Timber Management Plan (NTMP) program, to provide nonindustrial landowners (with less than 15,000 acres of timberland) greater opportunities for cost-effective timber management than currently exist through the application of a timber harvesting document that would allow for long-term approval with certain conditions.

Any interested person with questions concerning this rulemaking should contact:

Board of Forestry and Fire Protection  
 Attn: Matt Dias  
 Assistant Executive Officer  
 P.O. Box 944246  
 Sacramento, CA 94244-2460  
 Telephone: (916) 653-6634

The Board of Forestry and Fire Protection will also publish this Notice of Decision Not to Proceed on its website.

The Board of Forestry and Fire Protection is not precluded from taking up this rulemaking action again in the future.

**OAL REGULATORY  
 DETERMINATION**

**OFFICE OF ADMINISTRATIVE LAW**

**DETERMINATION OF ALLEGED  
 UNDERGROUND REGULATION  
 (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**

**2015 OAL DETERMINATION NO. 5  
 (OAL FILE NO. CTU2014-1010-01)**

**REQUESTED BY: RICKY T. FOSTER**

**CONCERNING: Modification of Level IV 270/180-design Housing Placement Screening Criteria (Memorandum dated September 26, 2012) issued by the California Department of Corrections and Rehabilitation.**

**DETERMINATION ISSUED PURSUANT TO  
 GOVERNMENT CODE SECTION 11340.5.**

**SCOPE OF REVIEW**

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule meets the definition of “regulation” as defined in Government Code section 11342.600 and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of “regulation,” but was not adopted pursuant to the APA and should have been, it is an “underground regulation” as defined in California Code of Regulations (CCR), title 1, section 250.<sup>1</sup> OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

**CHALLENGED RULE**

Modification of Level IV 270/180-design Housing Placement Screening Criteria, a Memorandum dated September 26, 2012, issued by the California Department of Corrections and Rehabilitation, which is attached hereto as Exhibit A (hereafter referred to as

<sup>1</sup>As defined by title 1, section 250(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.

“Housing Placement Screening Criteria Memorandum”).

**DETERMINATION**

OAL determines that the Housing Placement Screening Criteria Memorandum meets the definition of “regulation” that should have been adopted pursuant to the APA but was not; and therefore, is an underground regulation.

**FACTUAL BACKGROUND**

On October 10, 2014, Ricky T. Foster (Petitioner), submitted a petition to OAL challenging the Housing Placement Screening Criteria Memorandum issued by the Director of the Division of Adult Institutions of the California Department of Corrections and Rehabilitation (Department) as an underground regulation.

OAL accepted the petition for consideration on December 9, 2014. The petition was published in the California Regulatory Notice Register on December 19, 2014. Comments from the public were solicited until January 20, 2015. No comments were received. A response to the petition from the Department was due no later than February 2, 2015. OAL received a response from the Department dated April 3, 2015. In that OAL informed the Department that a response was due by February 2, 2015 on December 9, 2014, OAL will not consider the response of the Department and will make its own independent determination absent consideration of this additional information.

The Housing Placement Screening Criteria Memorandum contains criteria for consideration when classification and housing placements are made concerning adult inmates. The Department adopted regulations on Inmate Housing Assignments (title 15, CCR, section 3269) and on Administrative Segregation (title 15, CCR, section 3335), which detail factors to be considered in deciding where inmates should be housed. Section 3269 of title 15 of the CCR states:

**§ 3269. Inmate Housing Assignments.**

Inmates shall accept Inmate Housing Assignments (IHAs) as directed by staff. It is the expectation that all inmates double cell, whether being housed in a Reception Center, General Population (GP), an Administrative Segregation Unit (ASU), a Security Housing Unit (SHU), or specialty housing unit. If staff determines an inmate is suitable for double celling, based on the criteria as set forth in this section, the inmate shall accept the housing assignment or be subject to disciplinary action for refusing. IHAs shall be made on the basis of available documentation and individual

case factors. Inmates are not entitled to single cell assignment, housing location of choice, or to a cellmate of their choice.

(a) Upon arrival at an institution, facility, or program reception center, a designated custody supervisor shall screen an inmate for an appropriate housing assignment. The screening authority involved in the review and approval of an inmate’s housing assignment must evaluate all factors to be considered when completing the Initial Housing Review, including but not limited to:

- Inmate name, CDC number, and Personal Identification number.
  - Personal factors such as race, date of birth, age, weight, height, birth place, and whether the inmate is a foreign national.
  - Receiving Institution.
  - County of commitment.
  - Out to court return and escape history.
  - Length of sentence.
  - Enemies and victimization history.
  - Criminal influence demonstrated over other inmates.
  - Previous housing status.
  - Reason(s) for prior segregation.
  - History of “S” suffix determination pursuant to CCR subsection 3377.1(c).
  - History of in-cell assaults and/or violence.
  - Security Threat Group affiliation.
  - Involvement in a race based incident(s).
  - Nature of commitment offense.
  - Documented reports from prior cellmate(s) that the inmate intimidated, threatened, forced, and/or harassed him or her for sex.
  - Documentation that the cellmate(s) refused to return to a cell occupied by the inmate because of fear, threats, or abuse perpetrated by the inmate.
  - Documentation that the inmate has been the victim of a sexual assault or was previously single celled.
  - Adjudicated Department Rules Violations Reports (RVR) where the inmate was found guilty as a perpetrator in an act of physical abuse, sexual abuse, sodomy, or other act of force against a cellmate.
- (b) The screening authority shall complete the Initial Housing Review stating if the inmate is suitable for dorm/cell housing with or without special restrictions. Restrictions are any case factors which may limit the inmate’s housing placement options such as, but not limited to:
- Security issues including ASU and SHU placement.

- Request for Protective Custody.
- Medical or mental health issues.
- Personal factors such as age, weight, and height.
- Integrated Housing Code.

Staff shall ensure that the housing policies regarding special category inmates covered under specific litigation remain in place during the housing assignment.

(c) Upon placement in an ASU or SHU, inmates shall be screened for an appropriate cell assignment using the same criteria as inmates being screened for housing in the general population. The reason for ASU or SHU placement shall also be taken into consideration.

Based on available information and the inmate interview, the screening authority shall determine if the inmate is suitable for single or double celled housing, and shall complete a CDC Form 114-A1 (rev. 10/98), Inmate Segregation Profile. Unless approved for single cell assignment, an inmate in ASU or SHU is expected to share a cell with another inmate.

(d) Single cell status shall be considered for those inmates who demonstrate a history of in-cell abuse, significant in-cell violence towards a cell partner, verification of predatory behavior towards a cell partner, or who have been victimized in-cell by another inmate. Staff shall consider the inmate's pattern of behavior, not just an isolated incident. An act of mutual combat in itself does not warrant single cell status. The following factors must be considered when evaluating single cell status, noting these factors are not exclusive of other considerations:

(1) Predatory behavior is characterized by aggressive, repeated attempts to physically or sexually abuse another inmate.

(2) Documented and verified instances of being a victim of in-cell physical or sexual abuse by another inmate.

(e) Should the screening authority determine that single cell designation is appropriate, the inmate's case factors shall be reviewed by a classification committee for determination of appropriate housing and designation for an "S" suffix. A classification committee may consider whether an inmate with single cell designation has since proven capable of being double-celled.

(f) In cases where single cell status is recommended by clinical staff due to mental health or medical concerns, a classification committee shall make the final determination of an inmate's cell assignment. The classification committee shall consider the clinical recommendations made by the evaluating clinician with assistance from the clinician who participates in the committee and review the inmate's case factors when determining the housing assignment. Single cell status based upon clinical recommendation is usually a temporary short-term measure and must be periodically reviewed, minimally at an inmate's annual review or more frequently at the inmate's/clinician's request.

(g) If an inmate refuses to be housed as determined to be appropriate to this section, the inmate shall be subject to the disciplinary process, with the potential to be housed in alternative and more restrictive housing. Refusal to participate will result in the issuance of a Rules Violation Report (RVR) for Conduct, subsection 3005(c), Refusing to Accept Assigned Housing, for the Specific Act of Willfully Resisting, Delaying, or Obstructing any Peace Officer in the performance of Duty (CCR subsection 3323(f)(6)). Subsequent acts of the above listed offense will result in the issuance of additional disciplinary reports and consideration for placement in more restrictive housing such as an ASU or a SHU.

Title 15, section 3335 of the CCR, provides further criteria as to when Administrative Segregation is appropriate for an inmate.

The Housing Placement Screening Criteria Memorandum challenged as an alleged underground regulation contains additional specific exclusionary criteria for Level IV 270-design housing. For example, those inmates that have had a "Determinate Security Housing Unit (SHU) term in the last three years for a Division A-1, A-2, or B disciplinary offense involving assaultive behavior or weapons possession" are excluded from that type of housing. Likewise, inmates found guilty of battery or assault on two or more occasions within a 12-month period are excluded from Level IV 270-design housing for one year from the date the inmate was found guilty of the last Rules Violation Report.

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides that:

(a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of Government Code section 11340.5 it creates an underground regulation as defined in title 1, California Code of Regulations, section 250.

OAL may issue a determination as to whether or not an agency has issued, utilized, enforced, or attempted to enforce a rule that meets the definition of “regulation” as defined in Government Code section 11342.600 and should have been adopted pursuant to the APA (Gov. Code sec. 11340(b)). An OAL determination is not enforceable against the agency through any formal administrative means, but it is entitled to “due deference” in any subsequent litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422 [268 Cal.Rptr. 244].

ANALYSIS

OAL’s authority to issue a determination extends only to the limited question of whether the challenged rule is a “regulation” subject to the APA. This analysis will determine (1) whether the challenged rule is a “regulation” within the meaning of Government Code section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

A regulation is defined in Government Code section 11342.600 as:

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

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571 [59 Cal.Rptr.2d 186], the California Supreme Court found that:

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency’s procedure (Gov. Code, § 11342, subd. (g)).<sup>2</sup>

As stated in *Tidewater*, the first element used to identify a “regulation” is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the state of California. It is sufficient if the rule applies to a clearly defined class of persons or situations.<sup>3</sup>

The Housing Placement Screening Criteria Memorandum was issued by Kathleen L. Dickinson, Director of the Division of Adult Institutions for CDCR and was addressed to:

Associate Directors, Division of Adult Institutions  
Wardens  
Classification Staff Representatives  
Classification and Parole Representatives, and  
Correctional Counselors III, Reception Centers

The Housing Placement Screening Criteria Memorandum indicates that “[CDCR] is making classification and housing changes of inmates as a result of the recent Public Safety Realignment. . . .” Its subject is: “Modification of Level IV 270/180–Design Housing Placement Screening Criteria.” It further states that the “changes require reevaluation of the exclusionary criteria for housing Level IV inmates in Level IV 270–design facilities.” Inmates that may be Level IV inmates in a Level IV 180–design or Level IV 270–design facility may be subject to the criteria of this Housing Placement Screening Criteria Memorandum. It specifically “supersedes all prior memoranda addressing the placement of inmates in a Level IV 180–design facility or Level IV 270–design facility.”

Therefore, the Housing Placement Screening Criteria Memorandum applies generally to the defined class of Level IV inmates.

The second element used to identify a “regulation” as stated in *Tidewater* is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency’s procedure. Penal Code section 5054 specifically provides that the

<sup>2</sup> Section 11342(g) was re-numbered in 2000 to section 11342.600 without substantive change.

<sup>3</sup> See also *Roth v. Department of Veterans Affairs*, (1980) 110 Cal.App.3d 14, 19; 167 Cal.Rptr. 552, 557.

care and custody of inmates, as well as the management and control of state prisons, is vested in the Secretary of the Department. It states:

Commencing July 1, 2005, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline and employment of persons confined therein are vested in the Secretary of the Department of Corrections and Rehabilitation.

The Secretary, through the Department’s Director of the Division of Adult Institutions, is implementing, interpreting and making specific the duties delegated to the Secretary pursuant to section 5054 of the Penal Code when deciding on the criteria for appropriate inmate housing assignments as that articulated in the Housing Placement Screening Criteria Memorandum.

In addition, CDCR has adopted regulations concerning Inmate Housing Assignments. As stated *supra*, section 3269 of title 15 of the California Code of Regulations details criteria and procedures for assigning inmates to housing. The Housing Placement Screening Criteria Memorandum furthers interprets section 3269 of title 15 when adding to the criteria to be considered when deciding on appropriate inmate housing assignments.

The Housing Placement Screening Criteria Memorandum, therefore, meets the definition of “regulation” in Government Code section 11342.600.

The final issue to examine is whether the challenged rule falls within an express statutory exemption from the APA. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies. Exemptions may also be specific to a particular rule-making agency or a specific program. Pursuant to Government Code section 11346, the procedural requirements established in the APA “shall not be superseded or modified by any subsequent legislation *except to the extent that the legislation shall do so expressly.*” (Emphasis added.)

The Department has not identified an express statutory exemption from the APA that would apply to the Housing Placement Screening Criteria Memorandum, nor did OAL find such an exemption.

**CONCLUSION**

In accordance with the above analysis, OAL determines that the Housing Placement Screening Criteria Memorandum meets the definition of “regulation” that should have been adopted pursuant to the APA but was not; and therefore, is an underground regulation.

Date: April 20, 2015

/s/  
Debra M. Cornez  
Director

/s/  
Elizabeth A. Heidig  
Senior Attorney

cc: Dr. Jeffrey Beard  
Timothy Lockwood

**SUMMARY OF REGULATORY ACTIONS**

**REGULATIONS FILED WITH SECRETARY OF STATE**

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

File# 2015-0413-05  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
Conflict-of-Interest Code

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

Title 4  
California Code of Regulations  
AMEND: 150  
Filed 04/21/2015  
Effective 05/21/2015  
Agency Contact: Adriana Ruelas (916) 928-6821

File# 2015-0409-02  
DEPARTMENT OF CONSERVATION  
Aquifer Exemption Compliance Schedule

This emergency rulemaking action by the Department of Conservation (DOC) adopts sections 1760.1 and 1779.1 in title 14 of the California Code of Regulations to provide an aquifer exemption compliance schedule for the oil and gas industry. This rulemaking action establishes deadlines for the oil and gas industry to obtain aquifer exemptions in an effort to bring California’s Class II Underground Injection Control program into compliance with the federal Safe Drinking Water Act.

Title 14  
California Code of Regulations  
ADOPT: 1760.1, 1779.1  
Filed 04/20/2015  
Effective 04/20/2015  
Agency Contact: Justin Turner (916) 322-2405

File# 2015-0312-02  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
Non-Substantive Changes — Civil Addicts

These changes without regulatory effect by the Department of Corrections and Rehabilitation (the “Department”) amend six sections in title 15 of the California Code of Regulations (the “CCR”). Senate Bill 1021 (2011-2012 Reg. Sess.) eliminated the Civil Addict Program (the “Program”) encompassed in Chapter 1 (commencing with Section 3000) of Division 3 of the Welfare and Institutions Code. These changes without regulatory effect delete references to and regulatory provisions regarding the Program in division 3 of title 15 of the CCR.

Title 15  
California Code of Regulations  
AMEND: 3001, 3042, 3043, 3084.7, 3379, 3768.2  
Filed 04/22/2015  
Agency Contact: Laura Lomonaco (916) 445-2217

File# 2015-0304-01  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
Electronic Drug Detection Equipment

This certification of compliance makes permanent sections 3410.1 and 3173.2 of title 15 of the California Code of Regulations to introduce electronic drug detectors as a tool for drug and contraband detection on the Department’s institutional grounds.

Title 15  
California Code of Regulations  
ADOPT: 3410.1  
AMEND: 3173.2  
Filed 04/16/2015  
Effective 04/16/2015  
Agency Contact: Gail Long (916) 445-2276

File# 2015-0305-04  
DEPARTMENT OF PESTICIDE REGULATION  
Personal Protective Equipment

This action by the Department of Pesticide Regulation (DPR), adopts, amends, and repeals sections in Title 3, California Code of Regulations relating to pesti-

cide worker safety. As required by the Food and Agriculture Code, DPR mutually developed the changes to the regulations with the Office of Environmental Health Hazard Assessment. This action clarifies the personal protective equipment requirements, and updates requirements for protective eyewear and hand protection.

Title 3  
California Code of Regulations  
ADOPT: 6738.1, 6738.2, 6738.3, 6738.4 AMEND: 6000, 6702, 6720, 6724, 6738, 6739, 6764, 6771, 6793, 6795 REPEAL: 6486.7, 6736  
Filed 04/15/2015  
Effective 07/01/2015  
Agency Contact:  
Linda Irokawa-Otani (916) 445-3991

File# 2015-0305-03  
DEPARTMENT OF PESTICIDE REGULATION  
Continuing Education Forms

This change without regulatory effect filing by the Department of Pesticide Regulation (DPR) revises the Continuing Education Approval Request Application DPR-PML-131 (Rev. 01/13) and the Continuing Education Additional Course Date Request DPR-PML-132 (Rev. 01/13) to include an optional space to state whether a course will be offered in a language other than English. The proposed changes also include updating the revision dates of these forms in section 6512 of title 3 of the California Code of Regulations, which incorporates the forms by reference.

Title 3  
California Code of Regulations  
AMEND: 6512  
Filed 04/16/2015  
Agency Contact:  
Linda Irokawa-Otani (916) 445-3991

File# 2015-0310-02  
DEPARTMENT OF WATER RESOURCES  
Encroachment Permit Program for Department of Water Resources

In this resubmitted regulatory action, the Department is adding Chapter 6, entitled “Encroachments,” to Title 23 of the California Code of Regulations. The regulations set forth the requirements for obtaining an Encroachment Permit. The regulations also outline the Department’s review process, associated costs to the applicant, and implement the enforcement provisions of Water Code section 12899, in order to allow the Department to limit unauthorized encroachments and control access to the right-of-way.

Title 23

California Code of Regulations

ADOPT: 600, 600.1, 600.2, 600.3, 600.4, 601, 602, 603, 603.5, 604, 605, 606, 607.1, 607.2, 607.3, 608.1, 608.2, 608.3, 610.1, 610.2, 610.3, 610.4, 610.5, 610.6, 610.7, 610.8, 610.9, 610.10, 610.11, 612.1, 612.2, 612.3, 612.4, 612.5, 612.6, 612.61, 612.62, 612.63, 612.64, 612.65, 612.66, 612.67, 615.1, 615.2, 615.3, 618, 620, 625.1, 625.2, 625.3, 625.4, 625.5, 625.6, 625.7, 635.0

Filed 04/22/2015

Effective 07/01/2015

Agency Contact:

Leroy Ellinghouse (916) 653-7168

File# 2015-0306-01

**DIVISION OF WORKERS' COMPENSATION**

Workers' Compensation — Medical Treatment Utilization Schedule

This rulemaking action adopts and amends regulations in Title 8 of the California Code of Regulations concerning Workers' Compensation and the Medical Treatment Utilization Schedule (MTUS). More specifically, the action establishes a medical literature search sequence to guide those who make medical treatment decisions and amends the existing strength-of-evidence-methodology used by those who making medical treatment decisions in choosing, from among competing recommendations, the recommendation supported by the best available evidence. The action also adds two members to the Medical Evidence Evaluation Advisory Committee.

Title 8

California Code of Regulations

ADOPT: 9792.21.1, 9792.25.1 AMEND: 9792.20, 9792.21, 9792.23, 9792.24.1, 9792.24.3, 9792.25, 9792.26

Filed 04/20/2015

Effective 04/20/2015

Agency Contact: John G. Cortes (510) 286-7100

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN November 19, 2014 TO  
April 22, 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 2**

04/09/15 AMEND: 57400

04/08/15 AMEND: 212

04/07/15 ADOPT: 59780

04/02/15 AMEND: 18215

04/02/15 AMEND: 18530.4, 18530.45

03/24/15 AMEND: 1900

03/23/15 AMEND: 1189.10

03/23/15 AMEND: 59740

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,

**CALIFORNIA REGULATORY NOTICE REGISTER 2015, VOLUME NO. 18-Z**

	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	03/10/15	ADOPT: 10170.16, 10170.17, 10170.18, 10170.19, 10170.20, 10170.21, 10170.22, 10170.23, 10170.24
12/16/14	ADOPT: 557	03/09/15	ADOPT: 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7, 10091.8, 10091.9, 10091.10, 10091.11, 10091.12, 10091.13, 10091.14, 10091.15
12/15/14	AMEND: 18545, 18703.4, 18730, 18940.2	03/04/15	AMEND: 1866
12/15/14	AMEND: 18704.1, 18705.1	03/02/15	AMEND: 1688
12/15/14	AMEND: 18704	02/26/15	ADOPT: 24465-3
12/10/14	ADOPT: 20700, 20701, 20702, 20703, 20704, 20705, 20706, 20707	02/02/15	ADOPT: 12003, 12311, 12312, 12313, 12315, 12316 AMEND: 12002 REPEAL: 12400, 12401, 12402, 12403, 12404, 12405, 12406, 12410
12/03/14	AMEND: 51.7	01/30/15	AMEND: 10085
11/24/14	AMEND: 18942	01/13/15	ADOPT: 5600, 5610, 5620, 5630, 5640 AMEND: 5000, 5144, 5170, 5200, 5205, 5230, 5240, 5255, 5350, 5370
11/24/14	AMEND: 18705.2	01/13/15	AMEND: 1858
11/20/14	AMEND: 1859.73.2, 1859.76, 1859.78.7, 1859.82	12/24/14	AMEND: 106(d)
<b>Title 3</b>		12/15/14	AMEND: 10080, 10081, 10082, 10083, 10084, 10085, 10086
04/16/15	AMEND: 6512	12/05/14	ADOPT: 10080, 10081, 10082, 10083, 10084, 10085, 10086, 10087
04/15/15	ADOPT: 6738.1, 6738.2, 6738.3, 6738.4 AMEND: 6000, 6702, 6720, 6724, 6738, 6739, 6764, 6771, 6793, 6795 REPEAL: 6486.7, 6736	11/19/14	ADOPT: 12006, 12012, 12035, 12052, 12054, 12056, 12058, 12060, 12062, 12064, 12066, 12068 AMEND: 12002, 12015, (Renumbered 12047), 12017, (Renumbered 12048), 12050 REPEAL: 12218.5, 12234
04/09/15	AMEND: 3435(b)		
04/08/15	AMEND: 3435(b)	<b>Title 5</b>	
04/06/15	AMEND: 3	03/12/15	AMEND: 19810
03/20/15	AMEND: 3435(b)	02/18/15	ADOPT: 58621 AMEND: 58601, 58612, 58620
03/17/15	AMEND: 1428.6, 1428.7, 1428.8, 1428.10, 1428.12	01/30/15	ADOPT: 71105, 71105.5, 71410, 71471, 71775, 71775.5, 74240, 74250, 75140 AMEND: 70000, 71400, 71650, 75150
03/02/15	AMEND: 3435(b)	01/20/15	ADOPT: 80693, 80694
02/25/15	AMEND: 2	01/08/15	ADOPT: 15494, 15495, 15496, 15497, 15497.5
02/18/15	AMEND: 4500	12/04/14	AMEND: 76120
02/12/15	AMEND: 3435(b)	12/04/14	AMEND: 30040, 30042.5
02/02/15	AMEND: 1392.8.1	12/01/14	AMEND: 1514, 3380
01/27/15	AMEND: 3591.13(a)	<b>Title 8</b>	
01/26/15	AMEND: 3435(b)	04/20/15	ADOPT: 9792.21.1, 9792.25.1 AMEND: 9792.20, 9792.21, 9792.23, 9792.24.1, 9792.24.3, 9792.25, 9792.26
01/21/15	AMEND: 300, 301	04/06/15	AMEND: 9701, 9702
01/16/15	AMEND: 3435	04/06/15	ADOPT: 17300, 17301, 17302, 17303, 17304, 17305, 17306, 17307, 17308, 17309, 17310
01/02/15	AMEND: 3435(b)	04/03/15	AMEND: 3395
12/23/14	AMEND: 1380.19, 1442.7	02/25/15	AMEND: 9789.25
12/01/14	AMEND: 1310, 1310.1		
11/19/14	AMEND: 3435(b)		
<b>Title 4</b>			
04/21/15	AMEND: 150		
04/09/15	AMEND: 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10187		
04/07/15	AMEND: 87102, 87455, 87465, 87469, 87615, 87616, 87632, 87633		
04/06/15	ADOPT: 10080, 10081, 10082, 10083, 10084, 10085, 10086, 10087		
04/06/15	AMEND: 278		
03/30/15	ADOPT: 8078.3, 8078.4, 8078.5, 8078.6, 8078.7		
03/13/15	AMEND: 5205, 5230		

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02/12/15	AMEND: 333, 336	(renumbered to 2548.15), 2548.15
02/04/15	AMEND: 9789.10, 9789.11, 9789.20, 9789.21, 9789.22, 9789.23, 9789.25, 9789.50, 9789.60, 9789.70, 9789.110, 9789.111, 9790	(renumbered to 2548.16), 2548.16 (renumbered to 2548.17), 2548.17 (renumbered to 2548.18), 2548.18 (renumbered to 2548.19), 2548.19
12/04/14	AMEND: 9789.39	(renumbered to 2548.20), 2548.20
12/02/14	AMEND: 5620, 6165, 6180, 6181, 6182, 6183, 6184	(renumbered to 2548.21), 2548.21 (renumbered to 2548.22), 2548.22
12/01/14	AMEND: 1514, 3380	(renumbered to 2548.23), 2548.23
11/26/14	AMEND: 5155	(renumbered to 2548.24), 2548.24 (renumbered to 2548.25), 2548.25
<b>Title 9</b>		
03/09/15	AMEND: 4210	(renumbered to 2548.26), 2548.26 (renumbered to 2548.27), 2548.27 (renumbered to 2548.28), 2548.28 (renumbered to 2548.29), 2548.29 (renumbered to 2548.30), 2548.30 (renumbered to 2548.31), and 2548.31 (renumbered to 2548.32) REPEAL: 2548.8
<b>Title 10</b>		
04/13/15	ADOPT: 5508, 5509, 5510, 5511, 5512, 5513, 5514, 5515, 5516	
03/25/15	AMEND: 2303, 2303.1, 2303.2, 2303.3, 2303.4, 2303.5, 2303.6, 2303.7, 2303.8, 2303.9, 2303.10, 2303.11, 2303.12, 2303.13, 2303.14, 2303.16, 2303.17, 2303.18, 2303.19, 2303.20, 2303.21, 2303.22, 2303.23, 2303.24, 2303.25	
03/18/15	ADOPT: 6432	
03/16/15	ADOPT: 6426, 6434	
02/19/15	ADOPT: 6432	
02/05/15	ADOPT: 8000, 8010, 8020, 8030, 8040	
02/05/15	ADOPT: 6428, 6430	
02/02/15	AMEND: 3528	
01/30/15	ADOPT: 2240.15, 2240.16, 2240.6, 2240.7 AMEND: 2240, 2240.1, 2240.4, 2240.5	
01/20/15	AMEND: 2695.85	
01/08/15	AMEND: 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2507.1, 2507.2, 2508, 2509	
01/02/15	AMEND: 2698.95	
12/12/14	ADOPT: 6408, 6410, 6450, 6452, 6454, 6470, 6472, 6474, 6476, 6478, 6480, 6482, 6484, 6486, 6490, 6492, 6494, 6496, 6498, 6500, 6502, 6504, 6506, 6508, 6510, 6600, 6602, 6604, 6606, 6608, 6610, 6612, 6614, 6616, 6618, 6620	
12/12/14	ADOPT: 6657, 6658, 6660, 6664, 6670	
12/10/14	AMEND: 2498.4.9	
12/08/14	AMEND: 2498.6	
12/04/14	AMEND: 2717	
11/25/14	ADOPT: 2548.7, 2548.8 AMEND: 2548.2, 2548.4, 2548.5, 2548.7 (renumbered to 2548.9), 2548.9 (renumbered to 2548.10), 2548.10 (renumbered to 2548.11), 2548.11 (renumbered to 2548.12), 2548.12 (renumbered to 2548.13), 2548.13 (renumbered to 2548.14), 2548.14	
<b>Title 11</b>		
03/09/15	ADOPT: 4250, 4251, 4252, 4253, 4254, 4255, 4256, 4257, 4258, 4259	
<b>Title 13</b>		
04/09/15	AMEND: 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629	
01/23/15	AMEND: 553.70	
01/21/15	AMEND: 1159	
12/31/14	AMEND: 2025	
12/17/14	ADOPT: 2416, 2417, 2418, 2419, 2419.1, 2419.2, 2419.3, 2419.4	
12/17/14	ADOPT: 2416, 2417, 2418, 2419, 2419.1, 2419.2, 2419.3, 2419.4	
12/01/14	ADOPT: 16.00, 16.02, 16.04, 16.06, 16.08, 16.10, 16.12, 16.14	
<b>Title 13, 17</b>		
01/23/15	AMEND: 553.70	
01/21/15	AMEND: 1159	
12/05/14	AMEND: Title 13: 1900, 1956.8, 2036, 2037, 2112, 2139, 2140, 2147, 2485; Title 17: 95300, 95301, 95302, 95303, 95305	
<b>Title 14</b>		
04/20/15	ADOPT: 1760.1, 1779.1	
04/06/15	AMEND: 15411	
04/01/15	AMEND: Heading of Division 7	
04/01/15	AMEND: 1.73, 27.75, 27.80	
03/30/15	ADOPT: 3550.17	
03/10/15	AMEND: 1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 27.65, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.54, 28.55, 58.56, 28.58, 28.90	
02/23/15	AMEND: 1.45, 2.09, 4.05, 5.00, 5.80, 7.50, 8.00, 27.90	
01/30/15	AMEND: 465, 472	

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01/29/15 AMEND: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8  
 01/28/15 AMEND: 4351.1 (renumbered as 4351), 4360 REPEAL: 4351  
 12/30/14 ADOPT: 1751, 1761, 1777.4, 1780, 1781, 1782, 1783, 1783.1, 1783.2, 1783.3, 1784, 1784.1, 1784.2, 1785, 1785.1, 1786, 1787, 1788, 1789  
 12/29/14 AMEND: 1665.7  
 12/29/14 AMEND: 670.5  
 12/16/14 AMEND: 790, 791.6, 791.7, 795  
 12/10/14 AMEND: 895.1, 1038, 1039.1, 1041, 1092.01, 1092.28 REPEAL: 1038  
 11/26/14 AMEND: 923.2 [943.2, 963.2], 923.4 [943.4, 963.4], 923.5 [943.5, 963.5], 923.9 [943.9, 963.9]  
 11/25/14 AMEND: 1038, 1038.2  
 11/24/14 AMEND: 917.2, 937.2, 957.2

**Title 15**

04/22/15 AMEND: 3001, 3042, 3043, 3084.7, 3379, 3768.2  
 04/16/15 ADOPT: 3410.1 AMEND: 3173.2  
 03/17/15 ADOPT: 3410.2 AMEND: 3000, 3173.2, 3287, 3410.1  
 03/16/15 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  
 03/12/15 REPEAL: 3999.13  
 02/11/15 REPEAL: 3999.11  
 02/09/15 ADOPT: 8121  
 01/28/15 ADOPT: 3364.1, 3364.2 AMEND: 3351, 3364  
 12/22/14 ADOPT: 3620, 3621, 3622, 3623, 3624, 3625, 3626 AMEND: 3000, 3521.1, 3521.2, 3545, 3800.2 REPEAL: 3620, 3625  
 12/04/14 AMEND: Renumber 8125 to 8199  
 12/03/14 AMEND: Renumber Section 8002 to 8901  
 12/01/14 AMEND: 4604, 4605  
 11/26/14 REPEAL: 2600, 2603, 2604, 2605, 2606, 2615, 2616, 2617, 2618, 2619, 2620, 2635, 2635.1, 2636, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2646.1, 2647, 2647.1, 2648, 2649, 2710, 2711, 2712, 2714

**Title 16**

04/10/15 ADOPT: 1746.3  
 04/09/15 ADOPT: 1399.326, 1399.329, 1399.343, 1399.344, 1399.345, 1399.346 AMEND:

1399.301, 1399.350, 1399.351, 1399.352, 1399.395  
 04/09/15 AMEND: 4161  
 04/08/15 AMEND: 3306, 3310, 3340.10, 3351.1  
 04/01/15 ADOPT: 914.1, 914.2 AMEND: 918, 921, 921.1, 921.2  
 03/26/15 ADOPT: 977, 980.4 AMEND: 978, 979, 980, 980.1, 980.2, 980.3, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994  
 03/26/15 AMEND: 3373  
 03/25/15 ADOPT: 1361.5, 1361.51, 1361.52, 1361.53, 1361.54, 1361.55 AMEND: 1361  
 03/18/15 AMEND: 2649  
 03/06/15 REPEAL: 950.8, 950.9  
 01/21/15 AMEND: 1387  
 01/12/15 AMEND: 601.3, 601.5, 620, 621, 622, 628, 631, 631.1  
 01/08/15 AMEND: 1707.5  
 12/30/14 ADOPT: 832.22, 833  
 12/23/14 AMEND: 116  
 12/22/14 AMEND: 1948  
 12/17/14 AMEND: 109  
 12/17/14 AMEND: 1399.541  
 12/03/14 AMEND: 2610  
 11/19/14 AMEND: 950.2, 950.9

**Title 17**

02/27/15 AMEND: 13675, 13676  
 02/11/15 AMEND: 2643.5, 2643.10, 2643.15  
 02/05/15 AMEND: 6540  
 01/21/15 ADOPT: 6550, 6551, 6553, 6553.1, 6555, 6557, 6557.1, 6557.2, 6557.3  
 12/31/14 AMEND: 95802, 95830, 95833, 95852, 95852.2, 95890, 95892, 95895, 95921, 95973, 95975, 95976, 95981, 95983, 95985, 95990  
 12/31/14 AMEND: 95201, 95202, 95203, 95204  
 12/31/14 AMEND: 95101, 95102, 95103, 95104, 95111, 95112, 95113, 95114, 95115, 95119, 95121, 95122, 95124, 95130, 95131, 95132, 95133, 95152, 95153, 95156, 95157  
 12/30/14 ADOPT: 30180.1, 30180.2, 30180.3, 30180.4, 30180.5, 30180.6, 30180.7, 30181, 30192.7, 30195.4, 30196, 30237, 30332.9 AMEND: 30180, 30190, 30192.1, 30194, 30195, 30195.2, 30195.3, 30235, 30253, 30254, 30257, 30330, 30332, 30332.5, 30332.6, 30332.8, 30333, 30333.1, 30334, 30336, 30336.1, 30336.5, 30346, 30346.2, 30348.1, 30350 REPEAL: 30192, 30210.2, 30237

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12/10/14	AMEND: 94014, 94016	607.1, 607.2, 607.3, 608.1, 608.2, 608.3,
12/05/14	ADOPT: 95660, 95661, 95662, 95663, 95664	610.1, 610.2, 610.3, 610.4, 610.5, 610.6, 610.7, 610.8, 610.9, 610.10, 610.11, 612.1, 612.2, 612.3, 612.4, 612.5, 612.6, 612.61, 612.62, 612.63, 612.64, 612.65, 612.66, 612.67, 615.1, 615.2, 615.3, 618, 620, 625.1, 625.2, 625.3, 625.4, 625.5, 625.6, 625.7, 635.0
<b>Title 18</b>		
03/19/15	AMEND: 472, 902, 904	
03/04/15	AMEND: 6001	
02/09/15	AMEND: 1588	
01/28/15	AMEND: 140.1	
12/09/14	AMEND: 18662-0, 18662-3, 18662-4, 18662-5, 18662-6, 18662-8	03/30/15 ADOPT: 877, 878, 878.1, 878.2, 879, 879.1, 879.2
<b>Title 20</b>		
03/12/15	AMEND: 3103	03/27/15 AMEND: 879(c)
03/04/15	AMEND: 1682(c)	03/27/15 ADOPT: 863, 864, 865
<b>Title 21</b>		
02/12/15	ADOPT: 1469, 1470, 1471	03/18/15 AMEND: 3939.10
<b>Title 22</b>		
04/07/15	AMEND: 51516.1	03/17/15 ADOPT: 3919.15
02/09/15	AMEND: 97177.15, 97244	02/17/15 ADOPT: 3919.14
02/05/15	ADOPT: 100018, 100020, 100025, 100026, 100027, 100028, 100029, 100030 AMEND: 100005, 100007, 100009, 100014, 100015, 100016, 100017, 100018, 100020, 100021, 100025, 100026, 100027 REPEAL: 100013, 100019, 100022, 100023, 100024, 100028	01/23/15 ADOPT: 3939.37
12/31/14	AMEND: 97174	01/05/15 ADOPT: 3946(b), 3946(c), 3946(d) AMEND: 3946(a)
12/17/14	AMEND: 51341.1	11/25/14 AMEND: 2050, 2050.5, 2051
12/01/14	REPEAL: 63000.10, 63000.13, 63000.16, 63000.17, 63000.19, 63000.25, 63000.28, 63000.31, 63000.34, 63000.35, 63000.37, 63000.40, 63000.43, 63000.46, 63000.47, 63000.48, 63000.49, 63000.62, 63000.65, 63000.66, 63000.67, 63000.68, 63000.70, 63000.71, 63000.74, 63000.77, 63000.80, 63000.81, 63000.83, 63000.84, 63000.85, 63000.86, 63000.87, 63000.88, 63000.89, 63000.90, 63000.92, 63000.95, 63010, 63011, 63012, 63013, 63014, 63015, 63020, 63021, 63025, 63026, 63027, 63028, 63029, 63030, 63040, 63050, 63051, 63052, 63055, 63056, 63057, 63058	<b>Title 25</b> 03/03/15 AMEND: 4514
<b>Title 23</b>		
04/22/15	ADOPT: 600, 600.1, 600.2, 600.3, 600.4, 601, 602, 603, 603.5, 604, 605, 606,	<b>Title 27</b> 11/19/14 AMEND: Appendix A of 25903
<b>Title 28</b>		
		12/22/14 ADOPT: 1300.65.2, 1300.89.21 AMEND: 1300.65, 1300.65.1
<b>Title MPP</b>		
		01/23/15 AMEND: 11-403
		01/22/15 ADOPT: 42-708, 42-709 AMEND: 42-302, 42-701, 42-711, 42-712, 42-714, 42-716, 42-720, 42-721, 42-722, 42-802, 42-1009, 42-1010, 44-111
		12/12/14 ADOPT: 40-039 AMEND: 22-071, 22-072, 22-305, 40-103, 40-105, 40-107, 40-119, 40-125, 40-128, 40-173, 40-181, 40-188, 40-190, 41-405, 42-209, 42-213, 42-221, 42-406, 42-407, 42-716, 42-721, 42-751, 42-769, 44-101, 44-102, 44-111, 44-113, 44-115, 44-133, 44-205, 44-207, 44-211, 44-304, 44-305, 44-313, 44-315, 44-316, 44-318, 44-325, 44-327, 44-340, 44-350, 44-352, 48-001, 80-301, 80-310, 82-612, 82-812, 82-820, 82-824, 82-832, 89-110, 89-201

