



# California Regulatory Notice Register

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## PROPOSED ACTION ON REGULATIONS

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

*Shell Egg Food Safety — Notice File No. Z2012-0626-03* ..... 881

### TITLE 5. CALIFORNIA STUDENT AID COMMISSION

*Cal Grant Program and Participating Institution Date Reporting Requirements  
Notice File No. Z2012-0626-04* ..... 887

### TITLE 13. AIR RESOURCES BOARD

*Verification Procedure 2012 — Notice File No. Z2012-0626-06* ..... 890

### TITLE 13. AIR RESOURCES BOARD

*Heavy-Duty OBD and OBD II 2012 — Notice File No. Z2012-0626-07* ..... 895

### TITLE 13. DEPARTMENT OF MOTOR VEHICLES

*Electronic Lien and Title Program — Notice File No. Z2012-0626-01* ..... 902

### TITLE 14. DEPARTMENT OF FISH AND GAME

*Dungeness Crab Trap Limit Program — Notice File No. Z2012-0626-09* ..... 905

### TITLE 14. FISH AND GAME COMMISSION

*Commercial Herring Fishery — Notice File No. Z2012-0626-02* ..... 908

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

*Specific Regulatory Levels, Chemicals Causing Reproductive Toxicity: Sulfur Dioxide —  
Notice File No. Z2012-0626-08* ..... 910

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FISH AND GAME

*CESA Consistency Determination Request for Mill Creek Bridge Scour Repair and  
Deck Rehabilitation Project (2080-2012-012-01), Tehama County* ..... 914

(Continued on next page)

*Time-  
Dated  
Material*

## SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State . . . . .	914
Sections Filed, February 1, 2012 to June 27, 2012 . . . . .	917

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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 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 July 6, 2012 and ending at 5:00 p.m., August 20, 2012. 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, 27533 and 46002 of the Food and Agricultural Code, and to implement, interpret or make specific sections 27510, 27510.1, 27518, 27521, 27541, 27573, 27631, 27627 and 27644, of said Code, the Department proposes to adopt section 1350 and amend section 1354 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

The Department of Food and Agriculture (Department) proposes to adopt section 1350, and amend section 1354 of Subchapter 3, Chapter 1, Division 3, of

Title 3 of the California Code of Regulations. The purpose of this proposal is to ensure that eggs are produced in a uniform manner to ensure the quality and safety of shell eggs sold for human consumption by reducing the occurrence of *Salmonella enterica* serotype Enteritidis (SE) contamination of shell eggs during egg production.

This proposal would require any person registered with the Department to engage in business in California as an egg producer or egg handler, and any out-of-state egg handler or egg producer selling eggs in California to (1) implement SE reduction measures consistent with state and federal requirements; (2) comply, within a commercially reasonable time frame, with a minimum numeric enclosure requirement for egg-laying hens if the eggs produced from those hens are sold in California; and (3) comply with specified egg container label requirements to include an affirmative label statement on every package of shell eggs that are for sale in California, certifying that those eggs were sold in compliance with these standards.

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 relating to the preparation for market and marketing of shell eggs as determined to be reasonably necessary to carry out the purposes of Chapter 1, Part 4, Division 12 of the Food and Agricultural Code.

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 27573 of the Food and Agricultural Code established an advisory committee to the Secretary of the Department on all matters pertaining to standards for shell eggs, the quality of shell eggs; recommendations concerning sampling; uniformity of inspection; adjustment of fees for proper administration and enforcement; annual budget for the administration and enforcement of the chapter and all matters pertaining to this chapter or regulations adopted pursuant thereto; and, components of the Egg Quality Assurance Plan, a voluntary food safety program, that are consistent with and promote the purposes of the chapter.

Existing law, section 27637 of the Food and Agricultural Code specifies that it is unlawful for a person to make any false, deceptive, or misleading statements

concerning the quality, size, weight, condition, source, origin, or any other matter relating to eggs.

Existing law, section 27541 of the Food and Agricultural Code specifies that any person engaged in business in California as an egg producer or egg handler, or any out-of-state egg handler or egg producer selling eggs into California, shall register with the Department. 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.

In accordance with the above-noted sections of law, the Department has in place existing regulations specifying the requirements for persons marketing eggs in California under Subchapter 3, Chapter 1, Division 3, of Title 3 of the California Code of Regulations.

The Department is proposing amendments to the requirements for the marketing of eggs in California by adopting section 1350 (shell egg food safety) and amending section 1354 (marking requirements) of Subchapter 3, Chapter 1, Division 3 of Title 3 of the California Code of Regulations. The intent of this proposal is to ensure that eggs are produced in a uniform manner to ensure the quality and safety of shell eggs sold for human consumption.

Based on an initial evaluation, the Department does not believe the proposed regulations are inconsistent or incompatible with existing state or federal regulations.

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. The benefits mitigate any potential adverse economic impacts identified in this proposal. SE is among the leading bacterial causes of foodborne illness in the United States, and shell eggs are a primary source of human SE infections. California consumers and the egg industry would benefit from this proposal because the Department is charged with the mission of assuring that healthful and wholesome eggs of known quality are sold in this state and to facilitate 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. Non-monetary 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 foodborne illness prevention measures applied equally to all suppliers into California markets and clear labeling of such products.

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 of Food and Agriculture has made an initial determination that the proposed regulatory action will have significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulation imposes mandatory egg safety requirements on California registered egg handlers and producers marketing eggs in California. Due to cost impacts, producers may choose to not market their eggs in the state.

The anticipated compliance requirements are as follows:

- **Businesses Impacted:** Approximately 1,151 registered egg handlers consisting of 10 processing plants, 608 which are both processing plants and producers, 202 wholesalers, and 331 producers.

This proposal requires two additional environmental tests and a SE vaccination program than what is currently required by the federal Egg Safety Rule [21 CFR Part 118]. The Department is calculating the cost of the provisions of this proposal, not the current cost for businesses to comply with existing state or federal regulations, or the cost to existing businesses that participate in the voluntary California Egg Quality Assurance Program for SE control, or the cost of the space requirements specified in Health and Safety Code sections 25990 and 25991 for egg-laying hens.

***Estimated costs to businesses to comply with the SE prevention measures by January 1, 2013:***

There are approximately 1,279 farms in California that produce eggs; of that total, the majority of the eggs are produced from 150 farms represented by 28 companies. Nationally, there are approximately 5,098 farms, and a majority of those eggs produced are from 69 farms. There are approximately 20 million hens in California and 14 million out-of-state hens producing eggs for

sale in California. Out-of-state facilities contribute about 40% of all eggs sold in California.

- Testing of chick papers at delivery for about 8,000–30,000 chicks total about \$35 per truck (a farm can receive about 100,000 chicks per delivery)
- The cost for SE control and surveillance is about \$0.12 cents per hen (11 cents for vaccination and one cent for environmental testing)
- Annual costs of SE environmental testing and vaccination are approximately \$1,413,320 for producers

***Costs to businesses to implement the minimum enclosure size requirements for egg-laying hens by January 1, 2015:***

The implementation date of January 1, 2015 was set to avoid conflict with Health and Safety Code section 25996. The space requirements specified in this proposal were set to be consistent with the European Union (EU) standard, but do not conflict with Health and Safety Code sections 25990 and 25991. Therefore, the enclosure requirements of this proposal impose minimal to non-existent additional costs to businesses, and are not included in the cost impacts to businesses. It is not the intent of the Department to capture costs already imposed by other state or federal laws or regulations.

The businesses impacted by the enclosure requirements are approximately 1,279 egg producing farms in California; of that total the majority of the eggs that are produced from 150 farms represented by 28 companies. Nationally, there are approximately 5,098 farms, and a majority of those eggs produced are from 69 farms. There are approximately 20 million hens in California and 14 million out-of-state hens producing eggs for sale in California. Out-of-state facilities contribute about 40% of all eggs sold in California.

- The Department has made an initial determination that there are no adverse economic impacts to businesses to comply with the labeling requirements under section 1354 as amended by this proposal, in regards to adding specified wording or statements to existing labels on all containers of eggs sold in California. The extended implementation date of January 1, 2015 allows for stockpiled materials to be exhausted and new packaging to be obtained.

- *Registration costs:* There are existing application and registration fees in statutes or regulations; however, no new registration fees are imposed by this proposal.
- *Paperwork/Reporting:* There are no new reporting requirements under this proposal. The Department is proposing an expanded labeling statement on containers of all eggs sold in California. It is anticipated any costs associated with the labeling requirements would be negligible, as producers are already complying with specified labeling requirements pursuant to existing regulation section 1354, and the implementation date of January 1, 2015 allows for the depletion of current packaging inventories.
- *Record-keeping:* This proposal may incur additional record-keeping requirements due to the expanded labeling requirement on all containers of eggs to ensure compliance with this proposal, as well as records of environmental testing and vaccinations. However, the records are not required to be sent to the Department. The Department would conduct audits and inspections of facilities to ensure compliance with the requirements as specified in this proposal. Any additional record-keeping costs are anticipated to be negligible since record-keeping is a standard business practice for persons marketing eggs in California.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Representative Private Persons or Businesses: The Department of Food and Agriculture is aware of the cost impacts that a representative private person or businesses would necessarily incur in reasonable compliance with the proposed action. The anticipated compliance requirements are as follows:

- *Businesses Impacted:* Approximately 1,151 registered egg handlers consisting of 10 processing plants, 608 which are both processing plants and producers, 202 wholesalers, and 331 producers.

This proposal requires two additional environmental tests and a SE vaccination program than what is currently required by the federal Egg Safety Rule [21 CFR Part 118]. The Department is calculating the cost of the provisions of this proposal, not the current cost for businesses to comply with existing state or federal regulations,

or the cost to existing businesses that participate in the voluntary California Egg Quality Assurance Program for SE control, or the cost of the space requirements specified in Health and Safety Code sections 25990 and 25991 for egg-laying hens.

***Estimated costs to businesses to comply with the SE prevention measures by January 1, 2013:***

There are approximately 1,279 farms in California that produce eggs; of that total, the majority of the eggs are produced from 150 farms represented by 28 companies. Nationally, there are approximately 5,098 farms, and a majority of those eggs produced are from 69 farms. There are approximately 20 million hens in California and 14 million out-of-state hens producing eggs for sale in California. Out-of-state facilities contribute about 40% of all eggs sold in California.

- Testing of chick papers at delivery for about 8,000–30,000 chicks total about \$35 per truck (a farm can receive about 100,000 chicks per delivery)
- The cost for SE control and surveillance is about \$0.12 cents per hen (11 cents for vaccination and one cent for environmental testing)
- Annual costs of SE environmental testing and vaccination are approximately \$1,413,320 for producers

***Costs to businesses to implement the minimum enclosure size requirements for egg-laying hens by January 1, 2015:***

The implementation date of January 1, 2015 was set to avoid conflict with Health and Safety Code section 25996. The space requirements specified in this proposal were set to be consistent with the EU standard, but do not conflict with Health and Safety Code sections 25990 and 25991. Therefore, the enclosure requirements of this proposal impose minimal to non-existent additional costs to businesses and are not included in the cost impacts to businesses. It is not the intent of the Department to capture costs already imposed by other state or federal laws or regulations. The businesses impacted by the enclosure requirements are: Approximately 1,279 farms in California produce eggs; of that total, the majority of the eggs are produced from 150 farms represented by 28 companies. Nationally, there are approximately 5,098 farms, and a majority of those eggs produced are from 69 farms. There are approximately 20 million hens in California and 14 million out-of-state hens producing eggs for

sale in California. Out-of-state facilities contribute about 40% of all eggs sold in California.

- The Department has made an initial determination that there are no adverse economic impacts to businesses to comply with the labeling requirements under section 1354 as amended by this proposal, in regards to adding specified wording or statements to existing labels on all containers of eggs sold in California. The extended implementation date of January 1, 2015 allows for stockpiled materials to be exhausted and new packaging to be obtained.
- *Registration costs:* There are existing application and registration fees in statutes or regulations; however, no new registration fees are imposed by this proposal.
- *Paperwork/Reporting:* There are no new reporting requirements under this proposal. The Department is proposing an expanded labeling statement on containers of all eggs sold in California. It is anticipated any costs associated with the labeling requirements would be negligible, as producers are already complying with specified labeling requirements pursuant to existing regulation section 1354, and the implementation date of January 1, 2015 allows for the depletion of current packaging inventories.
- *Record-keeping:* This proposal may incur additional record-keeping requirements due to the expanded labeling requirement on all containers of eggs to ensure compliance with this proposal, as well as records of environmental testing and vaccinations. However, the records are not required to be sent to the Department. The Department would conduct audits and inspections of facilities to ensure compliance with the requirements as specified in this proposal. Any additional record-keeping costs are anticipated to be negligible since record-keeping is a standard business practice for persons marketing eggs in California.

In making these determinations, the Department has considered alternatives that would lessen any adverse economic impact on businesses. No adverse impacts to small businesses are anticipated for the labeling requirements under regulation section 1354, as amended by this proposal. There is an exemption for small businesses from the federal egg safety rule and additional environmental testing and vaccination as required by this proposal for facilities housing less than 3,000 hens, as specified. There is no exemption from the enclosure requirements for producers marketing eggs in California, regardless of flock size, but the Department antici-

pates that most flocks with less than 3,000 hens will not need to make enclosure modifications to meet the proposed enclosure standards. The Department has not considered other alternatives than the proposed regulation and invites the public to submit such proposals during the written comment period. Submissions may include the following considerations:

- The establishments of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- The consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

Effect on Housing Costs: None.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Department of Food and Agriculture (Department) has prepared an economic impact assessment that is included in this filing. The total estimated dollar cost of new provisions required by the Department as a result of this proposal is estimated at \$1,413,320 annually. The Department has made an initial determination that the proposed regulatory action would have significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulation imposes new requirements on egg producers and handlers marketing eggs in California. As part of an economic impact assessment, the Department has determined that the proposal will affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, and that it will create or eliminate jobs or occupations. The Department's proposal does not impact multiple industries. 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.

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

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will have significant impact on the creation of new or elimination of existing jobs, businesses or the expansion of businesses in the State.

Occupations/Businesses Impacted: The Department has made an initial determination that this regulatory proposal will impact egg producers or handlers marketing eggs in California as follows: approximately 1,151 registered egg handlers consisting of 10 processing plants, 608 which are both processing plants and producers, 202 wholesalers, and 331 producers.

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. There are related federal regulations concerning disease control and flock management for 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.

Documents Incorporated by Reference: None.

Documents Relied Upon in Preparing Regulations:

- Salmonella Enteritidis Outbreak in Shell Eggs, U.S. Food & Drug Administration, November 30, 2010; summary Egg Safety Final Rule, July 7, 2009
- FDA Nationwide Recall
- FA Press Release, July 9, 2010, New Final Rule to Ensure Egg Safety, Reduce Salmonella Illnesses Goes Into Effect
- Federal Register/Vol. 74, No. 134/Thursday, July 9, 2009/Rules and Regulations
- Department of Food and Agriculture meeting agendas, April 1 and 4, 2011
- Shell Egg Advisory Committee meeting, February 17, 2010
- CEQAP brochure
- CEQAP Inspection Sheet
- Pullets
- California Egg Sales Exploding, August 2010
- Schwarzenegger: Eat Local, California Eggs are Safe, September 7, 2010
- Food and Agricultural Code sections 27510 and 27510.1
- The Egg Safety Rule at a Glance
- Food and Agricultural Code section 27541
- Health and Safety Code sections 25990, 25991, and 25996
- Farm Welfare Statutes, excerpts
- Shini, 2003: Physiological Responses of Laying Hens to Alternative Housing Systems, International Journal of Poultry Science, 357-360
- *Hen Welfare in Different Housing Systems*, © 2011, Poultry Science Association Inc.

- The Hy-Line W-36 white egg strain is the most common type used for egg production. There are also the Hy-Line brown egg strain and the Hy-Line W-98, which is selected for optimal egg mass.
- *The effect of feeder space allocation on productivity and physiology of Hy-Line W-36 hens housed in conventional cages*, 2009, Poultry Science Association Inc.
- Final Report — CDFA Agreement 09-0854, “*Determination of Space Use by Laying Hens*” by Joy Mench, Department of Animal Science, University of California, Davis, CA 95616
- European Union (EU) Council Directive 1999/74/EC
- 21 CFR section 101.5
- Sample of egg container label
- HR 3798
- Economic Impact Assessment

#### CONSIDERATION OF ALTERNATIVES

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

Alternatives considered at this time that were rejected are as follows:

1) Do nothing and rely on the FDA Egg Safety Rule and potential national enclosure legislation to protect California consumers from foodborne illness.

The Department rejected this option because the higher food safety standards currently adopted by California egg farmers on a voluntary basis [the California Egg Quality Assurance Program] include critical additional testing for SE and vaccination for salmonella, adding greater food safety assurance for the California consumer.

With regard to enclosures, Congress introduced House of Representatives (HR) 3798 January 23, 2012, to provide for a uniform national standard for the housing and treatment of egg-laying hens, under the “Egg Products Inspections Act Amendments of 2012”. Waiting until the enactment of HR 3798 delays the adoption of clear standards potentially for several years and because this legislation has only recently been introduced,

the outcome is uncertain. Currently, as of this writing, HR 3798 would ultimately propose 124 square inches of floor space per white bird when fully implemented as opposed to the use of 116 square inches per white bird as currently utilized by the European Union (EU). At this point there has been very little scientific research and practical experience with a 124-square-inch minimum standard; consequently, the Department supports the 116-square-inch requirement for egg-laying hens. The Department believes all three major components (SE surveillance; enclosure requirements; labeling) of this proposal are important to ensure the safety of shell eggs marketed to consumers, and believes a proactive approach is reasonable and necessary to ensure the quality and safety of eggs marketed to California consumers.

2) Enact SE testing and vaccination as proposed and more prescriptive enclosure provisions like those found in the European Union (EU) Council Directive 1999/74/EC, July 19, 1999. The directive, passed in 1999, banned conventional cages in the European Union commencing January 1, 2012 after a 13-year phase-out, and included other various requirements, as specified.

The Department’s minimum cage size requirements are consistent with the EU standard, which requires 116 square inches per white hen. However, the Department is not specifying the type of birds housed, only the minimum cage requirements. Since white egg-laying hens account for about ninety percent of the table eggs in the United States, and a significantly larger percent of birds housed in conventional cages, for simplicity purposes the Department is not specifying the type of hen. The Department also rejected the alternative of providing many detailed mandates, such as, floors, lighting, construction, design of feeding systems, and requirements for cage-free facilities as provided by the EU Directive. The Department believes that building structure design, plans for construction, and various related issues may be considered in future regulatory actions; however, at this time, the Department believes that providing minimum standards for a complete SE surveillance program will form a solid basis for any future regulatory actions based on evolving science and standards of the poultry industry.

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 of Food and Agriculture 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:

Tony Herrera, Program Supervisor  
Egg Safety and Quality Management  
Department of Food and Agriculture  
Meat, Poultry, and Egg Safety Branch  
Mailing: 1220 N Street  
Sacramento, CA 95814  
(916) 900-5060  
E-mail: [therrera@cdfa.ca.gov](mailto:therrera@cdfa.ca.gov)

The backup contact person is:

Nancy Grillo, Associate Analyst  
Department of Food and Agriculture  
Animal Health and Food Safety Services  
Mailing: 1220 N Street  
Sacramento, CA 95814  
(916) 900-5033  
E-mail: [ngrillo@cdfa.ca.gov](mailto:ngrillo@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 5. CALIFORNIA STUDENT AID COMMISSION

### AMENDMENT TO DIVISION 4, CHAPTER 1

#### Cal Grant Program and Participating Institution Data Reporting Requirements

#### NATURE OF PROCEEDING

NOTICE IS HEREBY GIVEN that the California Student Aid Commission (Commission) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### PUBLIC HEARING

The Commission will hold a public hearing at 10:00 a.m. August 20, 2012, at 10839 International Drive, Rancho Cordova, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Commission requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed emergency regulatory action to:

California Student Aid Commission  
Attention: Kristen Trimarche, Legal Services  
P. O. Box 419029  
Rancho Cordova, CA 95741-9029

Comments may also be submitted by facsimile (FAX) at (916) 464-8033 or by e-mail to [CalGrantRegsComment@csac.ca.gov](mailto:CalGrantRegsComment@csac.ca.gov). Comments must be submitted before 5:00 p.m. on August 20, 2012 to be considered.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 69433.7 of the Education Code, the proposed regulations imple-

ment, interpret and make specific sections 69432.7, 69432.9, 69433, 69433.6, 69434, 69435, 69435.3, 69437.5, and 69439 of the Education Code; the Commission is considering changes to Division 4 of Title 5 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

Existing law establishes the Ortiz–Pacheco–Poochigian–Vasconcellos Cal Grant Program as a state educational opportunity grant program for postsecondary study. The program establishes Cal Grant A and Cal Grant B Entitlement Awards, Competitive Cal Grant A and B Awards, California Community College Transfer Entitlement Awards, Cal Grant C Awards, and Cal Grant T Awards, under the administration of the Student Aid Commission. (Education Code § 69430, 69432.)

On March 24, 2011, Senate Bill 70 (Chapter 7, Statutes of 2011) (hereinafter “SB 70”) was chaptered into California law amending sections 69432.7, 69432.9, and 69433.6 of the Education Code and adding new section 69433.2 to the Education Code. Among the changes made by SB 70, were new institutional reporting requirements requiring that Cal Grant participating institutions, as a condition for their voluntary participation in the Cal Grant program, report to the Commission certain information relating to their programs.

The regulations proposed in this rulemaking action clarify and make specific the requirements for Cal Grant qualifying institutions to report to the Commission enrollment, persistence, and graduation data for all students, including aggregate information on Cal Grant recipients, in addition to the job placement rate and salary and wage information for students who have graduated from the institution.

**BENEFITS TO THE WELFARE OF  
CALIFORNIA RESIDENTS**

Helping students make good choices about higher education is critical to their success, not only as scholars but as the State’s future workforce. Students and their parents need pertinent information that is easy to access, easy to understand and easy to compare. They can search for information today, but it is often difficult to locate, fragmented across different sources, and steeped in the jargon of higher education professionals.

By requiring higher education institutions to report enrollment, persistence, graduation and employment data, these regulations would allow the California Student Aid Commission to bring valuable information for students together in one spot. By using this data as the

cornerstone for a new user–friendly website, CSAC can provide a model for the rest of the nation in empowering students to understand their options and select the best opportunity that supports their aspirations.

Consistency with Existing State Regulations: The Commission does not believe that the proposed regulations are inconsistent or incompatible with existing state regulations.

**FEDERAL MANDATE**

There are no comparable provisions of federal law related to this proposal.

**OTHER STATUTORY REQUIREMENT**

None.

**DISCLOSURES REGARDING THE  
PROPOSED ACTION**

The Commission has made the following initial determinations:

**MANDATE ON LOCAL AGENCIES AND  
SCHOOL DISTRICTS**

None.

**FISCAL IMPACT ESTIMATES**

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

This proposal has potential costs for state agencies, namely the University of California (UC) and the California State University (CSU), depending upon the method selected by the UC and CSU for collecting and reporting the data required by the proposal. Under the proposal, all Cal Grant participating institutions including UC and CSU institutions have the option to submit electronically to the Commission the student unitary data necessary to satisfy the reporting requirement. If UC and/or CSU elect to collect and compile their reports without Commission assistance, it is possible that UC or CSU could incur some negligible costs. If any additional costs would need to be incurred, both UC and CSU would be able to absorb these costs within their existing budget and resources.

EFFECT ON HOUSING COSTS

None.

RESULTS OF THE ECONOMIC  
IMPACT ANALYSIS

ASSESSMENT REGARDING EFFECT ON  
JOBS/BUSINESSES

The Commission has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal would impose no costs upon business. The proposal does not affect small businesses as defined by California Government Code Section 11342.610. This proposal would not affect private sector or small business as defined by California Government Code Section 11342.610. The Commission 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.

By requiring higher education institutions to report enrollment, persistence, graduation and employment data, these regulations would allow the California Student Aid Commission to bring valuable information for students together in one spot to benefit the welfare of California residents.

COST IMPACT ON REPRESENTATIVE 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.

BUSINESS REPORTING REQUIREMENT

The Commission finds that it is necessary for the health, safety, or welfare of the people of this state that this regulatory proposal which requires a report apply to business.

ALTERNATIVES

The Commission has consulted with stakeholders and interested parties by holding scheduled webinars,

teleconferences, and meetings to develop the proposed action.

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

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the hearing to be scheduled and the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed adoption of the regulations and written comments may be directed to:

Kristen Trimarche  
California Student Aid Commission  
P.O. Box 419029  
Rancho Cordova, CA 95741-9029  
Telephone: (916) 464-6439  
Fax: (916) 464-8033  
Email: [CalGrantRegsComment@csac.ca.gov](mailto:CalGrantRegsComment@csac.ca.gov)

The back-up contact person for these inquiries is:

Kathleen Stanley  
California Student Aid Commission  
P.O. Box 419029  
Rancho Cordova, CA 95741-9029  
Telephone: (916) 464-7203  
Fax: (916) 464-8033  
Email: [CalGrantRegsComment@csac.ca.gov](mailto:CalGrantRegsComment@csac.ca.gov)

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

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office listed at the address above. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of regulations, the initial statement of reasons, and the information upon which the proposed rulemaking is based. Copies may be obtained by making a written request to Kristen Trimarche.

These documents may also be viewed and downloaded from the Commission's Web site at [www.csac.ca.gov](http://www.csac.ca.gov).

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

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

**AVAILABILITY OF THE FINAL STATEMENT  
OF REASONS**

Upon its completion, copies of the final statement of reasons may be obtained by making a written request to Kristen Trimarche at the above address.

**WEBSITE ACCESS**

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

**TITLE 13. AIR RESOURCES BOARD**

**NOTICE OF PUBLIC HEARING TO CONSIDER  
AMENDMENTS TO THE VERIFICATION  
PROCEDURE, WARRANTY AND IN-USE  
COMPLIANCE REQUIREMENTS FOR IN-USE  
STRATEGIES TO CONTROL EMISSIONS FROM  
DIESEL ENGINES**

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting amendments to the Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines.

**DATE:** August 23, 2012

**TIME:** 9:00 a.m.

**PLACE:** California Environmental Protection  
Agency  
Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., August 23, 2012, and may continue at 8:30 a.m., on August 24, 2012. This item may not be considered until August 24, 2012. Please consult the agenda for the meeting, which will be available at least 10 days before August 23, 2012, to determine the day on which this item will be considered.

**INFORMATIVE DIGEST OF PROPOSED ACTION  
AND POLICY STATEMENT OVERVIEW**

**Sections Affected:**

Proposed amendments to California Code of Regulations (CCR), title 13, sections 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710 and 2711.

**Background:**

In 1998, ARB identified diesel particulate matter (PM) as a toxic air contaminant (title 17, CCR, section 93000). A toxic air contaminant is an air pollutant that may cause or contribute to an increase in mortality or serious illness, or which may pose a present or potential hazard to human health. Diesel PM is of particular concern because it is distributed over large regions, thus resulting in widespread public exposure.

To address this large-scale health concern, in 2000, ARB adopted the Diesel Risk Reduction Plan (Diesel RRP) with the goal of reducing PM emissions and their associated health risks by 85 percent by the year 2020. The Diesel RRP identified a number of key measures to achieve this goal: more stringent standards for all new diesel-fueled engines and vehicles, retrofitting in-use diesel engines with diesel emission control strategies, and the use of low-sulfur diesel fuel.

To support the Diesel RRP, staff developed a verification procedure (Procedure) for in-use diesel emission control strategies (strategies or DECS) that was adopted by the Board in May 2002. The Procedure is used by staff to evaluate in-use DECS to ensure they achieve real and durable PM emissions reductions. It specifies emissions and durability test procedures, establishes warranty requirements, and in-use compliance testing requirements. Strategies that meet all of the Procedure's requirements are verified and thus become candidate compliance options to meet ARB fleet regulations that require the control of diesel emissions from in-use fleets.

In-use fleet regulations rely on having verified diesel emission control strategies available to fleet owners as a compliance option. Diesel vehicles and equipment for which regulations have already been adopted include transit buses (title 13, CCR, section 2023, et seq.), solid waste collection vehicles (title 13, CCR, section 2021, et seq.), vehicles that belong to public agencies and utilities (title 13, CCR, section 2022, et seq.), mobile cargo

handling equipment at ports and intermodal rail yards (title 13, CCR, section 2479), transport refrigeration units (title 13, CCR, section 2477), off-road diesel equipment (title 13 CCR, section 2449 et seq.), and private on-road diesel vehicles (title 13, CCR, section 2025 et seq.). These regulations provide several paths to compliance, one of which is the installation of verified diesel emission control strategies on existing engines.

Although applying for verification is voluntary, several DECS manufacturers have experienced reduced sales of DECS due to the global recession and recent changes to ARB's fleet regulations that extended deadlines to install DECS. In response, ARB staff reviewed the Procedure and proposes amendments to reduce certain of the Procedure's testing requirements. Staff believes that a number of amendments to the Procedure could be made while still ensuring that it serves the needs of the in-use fleet regulations and device end-users.

#### **Objectives and Benefits of the Proposed Amendments:**

To address concerns voiced by verification applicants regarding the testing costs associated with the Procedure's in-use compliance requirements, staff is proposing amendments that would reduce the amount of in-use testing that the Procedure currently requires. Specifically, staff proposes to replace one phase of in-use emissions testing with field testing, increase the sales thresholds that determine when testing must begin, provide for functionality testing of supporting components, provide a pathway to complete the required in-use testing using only one phase of emissions tests, and streamline the in-use compliance process. These proposed changes would reduce the cost to verification applicants while preserving the Procedure's goals and objectives.

In support of these proposed amendments, staff has also proposed amendments to add new language to section 2709 (In-Use Compliance Requirements) specifying the conditions for passing in-use compliance testing. The proposed changes are necessary to accommodate the introduction of field testing and the inclusion of visual and functional tests, and to ensure that the current deterioration factors are appropriate for all covered pollutants. Under these proposed amendments, verification applicants would propose appropriate test criteria for Executive Officer approval based on the design and operational characteristics of their particular devices.

Staff's proposed amendments would also add recall provisions and modify and clarify the annual warranty reporting requirements for applicants and installers. Staff's proposal would provide the Executive Officer with recall authority based on criteria such as a failure to meet the requirements for passing in-use compliance

testing, failure of an operational feature, warrantable failures of the same part or component in excess of 4 percent of the number of engines using the strategy, or for emission safety considerations. Staff's proposal also clarifies how the existing 4 percent threshold for warrantable failures is determined and clarifies the existing installation warranty requirements and requires installers of verified strategies to begin submitting annual installation warranty reports similar to the product warranty reports currently submitted by applicants. These changes would ensure the end-users of verified devices remain protected and will result in better installation and maintenance practices. Staff is continuing to investigate additional changes to the Procedure to assist verification applicants in investigating and resolving warranty claims.

Staff is also proposing several amendments that are generally intended to provide more specificity and clarity to the existing requirements. These include conditions under which an application may be terminated; engine maintenance criteria that must be provided by the applicant to their authorized installers for verified device pre-installation compatibility assessment; minimum operational data monitoring and storage requirements for backpressure monitoring systems; emission control groups and test engine selection criteria; labeling durability and replacement; alternative diesel fuels and fuel additives requirements; verified retrofit tampering prohibition; and safety evaluation requirements.

Staff also proposes to correct several format and numbering errors in section 2702, add several definitions to section 2701, identify the appropriate contact and mailing addresses for application submittals, clarify the durability demonstration period for locomotive verifications, add clarifying language to identify what may be considered a design modification regarding an applicant's DECS, and clarify the methodology used to determine emissions reductions. These changes would not affect the stringency of the verification process but would simply modify the existing evaluation protocol and implement the original intent of the regulation.

Lastly, staff also, at the request of the regulated entities, proposes to extend the conditional verification timeframe for off-road strategies from one to two years. This would benefit verification applicants by allowing them additional time to complete their conditional verification requirements.

Overall, staff's proposed amendments would provide additional flexibility and economic relief to applicants while ensuring that DECS verified by ARB continue to be durable and effective in reducing emissions from existing diesel vehicles. The proposed amendments would also strengthen and preserve critical end-user

protections to ensure the safe and effective use of DECS to meet ARB's various fleet rules.

#### CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

The proposed amendments are consistent with existing State regulations and simply modify an existing protocol used to evaluate diesel emission control strategies.

#### COMPARABLE FEDERAL REGULATIONS

United States Environmental Protection Agency (U.S. EPA) has published a draft document, "General Verification Protocol for Diesel Exhaust Catalysts, Particulate Filters, and Engine Modification Control Technologies for Highway and Nonroad Use Diesel Engines," but has not promulgated formal regulations for this verification protocol. That verification protocol is intended to support the voluntary retrofit programs initiated by U.S. EPA, while staff's proposal is to support ARB's Diesel RRP and all the associated in-use fleet regulations. Additionally, the U.S. EPA program affords no warranty protection.

#### AVAILABILITY OF DOCUMENTS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: *Proposed Amendments to the Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines*.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on July 5, 2012.

#### FINAL STATEMENT OF REASONS AVAILABILITY

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB website, listed below.

#### AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Keith A. Macias, Manager, (626) 575-6600, or Mr. Dean Bloudoff, Air Resources Engineer, (916) 322-8987.

Further, non-substantive inquiries concerning the proposed administrative action may be directed to Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

#### INTERNET ACCESS

This notice, the Initial Statement of Reasons (ISOR), and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB website for this rulemaking at <http://www.arb.ca.gov/regact/2012/verdev2012/verdev2012.htm>.

#### FISCAL IMPACT

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed amendments are presented below.

#### ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies, except ARB. ARB will require one additional staff person to monitor and investigate warranty issues in calendar years 2013 and thereafter. Total annual staff costs are estimated to be \$187,000.

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

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The proposed amendments to the Procedure would lower costs to the DECS industry by reducing the amount of required in-

use compliance testing and allowing additional unit sales before this testing is required. The addition of in-field tests, functional component testing, and streamlining the in-use compliance process will further reduce the costs associated with the in-use compliance requirements.

The lower cost could be offset by the costs of a potential recall event however. The Procedure currently includes less direct provisions that provide for remedial measures in the event of a failure associated with an applicant's DECS, so even without the addition of the proposed recall provisions it is assumed that applicants have made appropriate financial preparations and that such costs are already being incurred. Should a recall event occur, DECS installers and other maintenance providers will likely see an increased demand for system replacement or repairs, while applicants may see their savings eliminated. However, applicants that produce a robust system are unlikely to be subject to a recall event and will realize a long-term financial benefit from the reduction in the amount of in-use testing.

The proposed amendment requiring the submission of an annual installation warranty report is estimated to individually cost each installer approximately \$960 each year, and the total estimated annual statewide reporting cost is \$73,000 based on the number of businesses that are currently installing ARB verified devices. However, these costs will likely be offset by reduced installer costs associated with better and earlier identification of any in-field issues before they escalate into significant repairs, maintenance issues, and penalties. The remaining amendments represent procedural changes and clarifications and should not result in any significant impacts on businesses.

Overall, the proposed amendments are estimated to provide a savings to industry of approximately \$2.1 million to \$5.6 million and reduce future verification costs by approximately 10 percent. Because no direct emissions benefits are associated with staff's proposal, no cost effectiveness analysis could be performed.

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

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

#### STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT PREPARED PURSUANT TO GOVERNMENT CODE SEC. 11346.3(b)

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

#### BENEFITS OF THE PROPOSED REGULATION

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in ISOR.

#### EFFECT ON SMALL BUSINESS

The Executive Officer has also determined, pursuant to CCR, title 1, section 4, that the proposed regulatory action would potentially affect small businesses, especially installers of verified devices. Installers who choose to install these verified devices would incur costs due to increased reporting requirements.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

#### ALTERNATIVES

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, 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 provisions of law.

#### ENVIRONMENTAL ANALYSIS

In accordance with the ARB's certified regulatory program, CCR, title 17, sections 60006 through 60007, and the California Environmental Quality Act, Public Resources Code section 21080.5, ARB has conducted

an analysis of the potential for significant adverse and beneficial environmental impacts associated with the proposed regulatory action. The environmental analysis of the proposed regulatory action can be found in Chapter IV of the ISOR.

43000, 43000.5, 43011, 43013, 43018, 43105, 43600, and 43700. This action is proposed to implement, interpret and make specific sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, and 43204–43205.5 of the Health and Safety Code and title 17, CCR, section 93000.

**SUBMITTAL OF COMMENTS AND WRITTEN COMMENT PERIOD**

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on Monday, July 9, 2012. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after Monday, July 9, 2012 and received **no later than 12:00 noon on Wednesday, August 22, 2012**, and must be addressed to the following:

Postal mail: Clerk of the Board,  
Air Resources Board  
1001 I Street,  
Sacramento, California 95814

Electronic submittal:  
<http://www.arb.ca.gov/lispub/comm/bclist.php>

**You can sign up online in advance to speak at the Board meeting** when you submit an electronic board item comment. For more information go to: <http://www.arb.ca.gov/board/online-signup.htm>.

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board members have additional time to consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests, but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

**STATUTORY AUTHORITY AND REFERENCES**

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000,

**PURPOSE, BENEFITS, AND GOALS**

The Procedure is used to verify the emissions reduction capabilities of candidate DECS and ensures that they remain durable throughout their warrantable life. Regulated fleets may elect to retrofit their existing engines and if so, are required to use a DECS verified by ARB under the Procedure. Due to declining DECS sales, applicants for verification have expressed market concerns and proposed several alternatives to the current in-use compliance testing requirements with the intent of reducing the costs of the required testing. Staff evaluated these proposals and used them as the basis for the proposed amendments.

The proposed amendments would reduce costs to the applicants and streamline the in-use compliance requirements. The proposed amendments would also better define the application and review process, clarify the high backpressure notification requirements, clarify the attributes that define an emission control group, provide additional guidance regarding the selection of test engines, add a more defined pre-installation assessment to better ascertain an engine’s suitability prior to retrofit, ensure installers are properly trained, clarify safety testing requirements, clarify the warranty reporting requirements, clarify the testing and labeling requirements for fuel-based strategies, provide allowances for restricted use emergency standby engines, and provide applicants additional time to complete an off-road conditional verification.

The proposed amendments provide short-term financial savings to all applicants by reducing the amount of required in-use compliance testing by up to one-half and allowing additional sales before this testing is required. The addition of functional in-field tests and the alternative test schedule further reduces the costs associated with the in-use compliance requirements. Streamlining the in-use compliance process and providing additional time for applicants to complete their conditional verifications provides even greater financial flexibility. The addition of recall provisions and clarifications to the warranty reporting requirements are necessary to maintain the stringency of the Procedure and to protect end-users. The proposed amendments provide the economic flexibility requested by applicants while maintaining the effectiveness of the Procedure and ensuring that end-users of these devices remain protected.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents available in an alternate format or another language; or
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alterno u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER TECHNICAL STATUS AND PROPOSED REVISIONS TO ON-BOARD DIAGNOSTIC SYSTEM REQUIREMENTS FOR HEAVY-DUTY ENGINES, PASSENGER CARS, LIGHT-DUTY TRUCKS, MEDIUM-DUTY VEHICLES AND ENGINES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting amendments to California's Heavy Duty Engine On-Board Diagnostic System Requirements (HD OBD) and On-Board Diagnostic System Requirements for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines (OBD II). The Board will consider amendments to the HD OBD and OBD II regulations to update the diesel monitoring requirements, to make some requirements consistent between the HD OBD and OBD II regulations, and to clarify and improve the regulation where necessary, among other revisions.

DATE: August 23, 2012

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency  
Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., August 23, 2012, and may continue at 8:30 a.m., on August 24, 2012. This item may not be considered until August 24, 2012. Please consult the agenda for the meeting, which will be available at least 10 days before August 23, 2012, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:**

Proposed amendments to California Code of Regulations, title 13, sections 1968.2, 1968.5, 1971.1, and 1971.5 and the following documents incorporated by reference therein:

ARB Mail-Out #MSC 09-22, "Guidelines for Heavy-Duty On-Board Diagnostic (HD OBD) Certification Data," July 7, 2009.

International Standards Organization (ISO) 15765-4: "Road Vehicles — Diagnostics Communica-

tions over Controller Area Network (CAN) — Part 4: Requirements for emission-related systems,” February 2011.

Society of Automotive Engineers (SAE) J1699-3 — “Vehicle OBD II Compliance Test Cases”, December 2009.

SAE J1930-DA “Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms Web Tool Spreadsheet”, March 2012.

SAE J1979 “E/E Diagnostic Test Modes,” February 2012.

SAE J1979-DA “Digital Annex of E/E Diagnostic Test Modes”, October 2011.

SAE J2012-DA “Digital Annex of Diagnostic Trouble Code Definitions and Failure Type Byte Definitions”, July 2010.

SAE J2403 “Medium/Heavy-Duty E/E Systems Diagnosis Nomenclature,” February 2011.

SAE J1939 consisting of:

J1939 Recommended Practice for a Serial Control and Communications Vehicle Network, April 2011;

J1939/01 On-Highway Equipment Control and Communications Network, May 2011;

J1939/13 Off-Board Diagnostic Connector, October 2011;

J1939/21 Data Link Layer, December 2010;

J1939/31 Network Layer, May 2010;

J1939/71 Vehicle Application Layer (Through May 2010), March 2011;

J1939/73 Application Layer-Diagnostics, February 2010;

J1939/81 Network Management, June 2011; and

J1939/84 OBD Communications Compliance Test Cases For Heavy Duty Components and Vehicles, December 2010.

**Background:**

OBD systems serve an important role in helping to ensure that engines and vehicles maintain low emissions throughout their full life. OBD systems monitor virtually all emission controls on gasoline and diesel engines, including catalysts, particulate matter (PM) filters, exhaust gas recirculation systems, oxygen sensors, evaporative systems, fuel systems, and electronic powertrain components as well as other components and systems that can affect emissions when malfunctioning. The systems also provide specific diagnostic information in a standardized format through a standardized serial data link on-board the vehicles. The use and operation of OBD systems ensure reductions of in-use motor vehicle and motor vehicle engine emissions through improvements in emission system durability and performance.

The Board originally adopted comprehensive OBD regulations in 1989, requiring all 1996 and newer model year passenger cars, light-duty trucks, and medium-duty vehicles and engines to be equipped with OBD systems (referred to as OBD II). The Board subsequently updated the OBD II requirements in 2002 with the adoption of California Code of Regulations, title 13, section 1968.2, which established OBD II requirements and enforcement requirements for 2004 and subsequent model year vehicles. The Board has modified the OBD II regulation in regular updates since initial adoption to address manufacturers’ implementation concerns and, where needed, to strengthen specific monitoring requirements. The Board last adopted comprehensive updates to the OBD II requirements in 2006 to address several concerns and issues regarding the regulation (California Code of Regulations, title 13, §1968.2) and enforcement requirements (§1968.5), while minor updates were made to the OBD II regulations in 2011. In 2005, ARB adopted California Code of Regulations, title 13, section 1971.1, which established comprehensive OBD requirements for 2010 and subsequent model year heavy-duty engines and vehicles (i.e., vehicles with a gross vehicle weight rating greater than 14,000 pounds), referred to as HD OBD. The Board subsequently updated the HD OBD regulation in 2009 as well as adopted HD OBD-specific enforcement requirements (California Code of Regulations, title 13, §1971.5). Finally, as part of the 2009 update, the Board aligned the HD OBD with OBD II requirements for medium-duty vehicles.

**Objectives and Benefits:**

The purpose of the HD OBD and OBD II regulations is to reduce motor vehicle and motor vehicle engine emissions by establishing emission standards and other requirements for onboard diagnostic systems (OBD systems) that are installed on 2010 and subsequent model-year engines certified for sale in heavy-duty applications in California. The OBD systems, through the use of an onboard computer(s), monitor emission systems in-use for the actual life of the engine, detect malfunctions of the monitored emission systems, illuminate a malfunction indicator light (MIL) to notify the vehicle operator of detected malfunctions, and store fault codes identifying the detected malfunctions. The use and operation of OBD systems ensure reductions of in-use motor vehicle and motor vehicle engine emissions through improvements in emission system durability and performance.

In adopting the HD OBD and OBD II regulations, the Board directed the staff to continue to follow manufacturers’ progress towards meeting the regulations’ requirements and to report back should modifications to

the requirements be deemed appropriate. Since then, staff has met with stakeholders in teleconferences and face-to-face meetings, including a public workshop in March 2012, where staff and manufacturers identified areas in which modifications to the HD OBD and OBD II regulations, as they apply to medium-duty diesel vehicles, would be beneficial.

Additionally, since the adoption of amendments in 2010, stakeholders have argued that OBD system requirements are not emission standards or test procedures and that ARB does not have authority to order manufacturers to recall motor vehicles or engines if ARB were to determine that an installed OBD system was found to be in noncompliance with the HD OBD regulation. To clarify any misunderstanding, ARB staff is proposing that the OBD regulations be amended to be consistent with the federal definition of emission standard as set forth in *Engine Manufacturers Association v. South Coast Air Quality Management District* (2004) 541 U.S. 246, 253, 124 S.Ct. 1756, 1762 (*EMA*). For purposes of clarification and consistency, ARB staff is also adding the terms “exhaust emission standard” and “evaporative emission standard” in the definitions section to provide more specificity, where needed, to pre-existing textual references to emission standards.

The proposed changes to the HD OBD regulation include revisions that accelerate the start date for OBD system implementation on alternate-fueled engines from the 2020 model year to the 2018 model year, relax some requirements for OBD systems on heavy-duty hybrid vehicles for the 2013 through 2015 model years, relax the malfunction thresholds until the 2016 model year for three major emission control systems (PM filters, oxides of nitrogen (NOx) catalysts, and NOx sensors) on diesel engines based on the current limits of technical feasibility, delay the monitoring requirements for some diesel-related components until 2015 to provide further lead time for emission control strategies to stabilize, and clarify requirements for several monitors and standardization. Proposed amendments to the HD OBD regulation include:

- Clarifying the purposes and objectives of the OBD regulations
- Adding a definition of emission standard as it applies to OBD systems
- Adding definitions for exhaust and evaporative emission standards
- Revisions related to alternate-fueled engines
- Adding definitions and revising the permanent fault code storage and erasure protocol and in-use monitoring performance requirements applicable to hybrid vehicles
- Revising the freeze frame storage and erasure protocol

- Revising the in-use monitoring performance requirements for the PM filter and PM sensor monitors
- Revising the diesel misfire monitoring requirements to no longer require emission threshold-based malfunction criteria and to require expanded monitoring conditions.
- Revising the 2013 through 2015 model year malfunction thresholds for the diesel PM filter monitor, the NOx catalyst monitor, and the NOx sensor monitor
- Delaying some monitoring requirements for catalyzed PM filters and diesel non-methane hydrocarbon converting catalysts from the 2013 model year to the 2015 model year
- Revising the cooling system monitoring requirements to clarify when monitor enablement can occur
- Updating the SAE and ISO document references
- Revising the standardized communication protocol and diagnostic connector requirements to account for the new 500 kbps baud rate version of SAE J1939
- Revising the readiness status requirements to clarify which monitors are to be included in determining readiness
- Clarifying the calibration verification number requirements
- Revising the certification demonstration testing requirements to clarify how to perform the testing for gasoline air-fuel ratio cylinder imbalance monitoring and exhaust gas sensor monitoring, to exempt manufacturers from testing the diesel misfire monitor, and to clarify the test requirements for catalyst faults and other faults where default actions are taken
- Adding items required to be submitted as part of the certification application
- Revising the deficiencies section to allow up to two free deficiencies for 2013 through 2015 model year heavy-duty hybrid vehicles and for PM filter and PM sensor monitors

Concurrently, the staff is proposing to update the medium-duty vehicle diesel-related requirements in the medium-duty OBD II regulation (§1968.2) to be consistent with the proposed diesel-related amendments to the HD OBD regulation. These proposed changes for medium-duty vehicles include diesel monitoring requirements and diesel-related in-use monitor performance requirements mentioned above. This would allow manufacturers of both heavy-duty and medium-duty diesel engines to design to and meet essentially the same requirements.

Further, the staff is also proposing amendments to the HD OBD and OBD II enforcement regulations (California Code of Regulations, title 13, §1971.5 and §1968.5, respectively) to align with the proposed diesel-related changes to the HD OBD and OBD II regulations, specifically the selection criteria of engines/vehicles for the test sample group and the mandatory recall provisions for diesel engines.

The proposed HD OBD and OBD II amendments provide engine manufacturers with greater compliance flexibility and clarify the performance requirements that they are expected to meet in designing and developing robust OBD systems. This in turn will encourage manufacturers to design and build more durable engines and emission-related components, all of which will help ensure that forecasted emission reduction benefits from adopted medium- and heavy-duty engine emission control programs are achieved in-use.

**CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS**

As stated above, OBD II regulations were first adopted in 2002 while the HD OBD regulations were first adopted in 2005. The intent of OBD systems is to ensure that motor vehicle tailpipe and evaporative emission standards are met in-use throughout the useful lives of the motor vehicle and that emission-related components are durable and effective. The proposed amendments will provide for robust systems that are consistent and compatible with existing State regulations.

**MANDATED BY FEDERAL LAW OR REGULATIONS**

The federal Clean Air Act establishes ambient air quality standards that states must achieve by specific dates. The Clean Air Act does not mandate specific requirements that states must adopt but instead provides states with discretion on how to achieve these emission reductions. The OBD amendments set forth here have been determined by the California legislature and ARB as a necessary and important part of California's emission reduction program to achieve the federal objectives.

**COMPARABLE FEDERAL REGULATIONS**

In February 1993, the U.S. EPA promulgated final OBD requirements for federally certified light-duty vehicles and trucks. (40 CFR Part 86, §§ 86.094-2, 86.094-17, 86.094-18(a), 86.094-21(h), 86.094-25(d), 86.094-30(f), 86.094-35(l),

86.095-30(f), 86.095-35(l); see 58 Fed.Reg. 9468-9488 (February 19, 1993).) The requirements were later amended to require OBD systems on medium-duty vehicles by the 2008 model year. The final rule with the latest modifications of the requirements was published on February 24, 2009. A central part of the federal regulation is that, for purposes of federal certification of vehicles, U.S. EPA will deem California-certified OBD II systems to comply with the federal regulations.

In Health and Safety Code sections 43013, 43018, and 43101, the Legislature expressly directed ARB to adopt emission standards for new motor vehicles that are necessary and technologically feasible and to endeavor to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of the State standards at the earliest practicable date. ARB initially adopted the OBD II regulations to meet those legislative directives. The OBD II regulation was first adopted in 1990. On October 3, 1996, the U.S. EPA formally granted California's request for a waiver regarding the OBD II regulation, as last amended in December 1994,<sup>1</sup> recognizing that the OBD II regulation is at least as stringent in protecting public health and welfare as the federal regulation, and that unique circumstances exist in California necessitating the need for the State's own motor vehicle regulations program.

The federal OBD requirements are comparable in concept and purpose with California's OBD II regulation; however, differences exist with respect to the scope and stringency of the requirements of the two regulations. More specifically, California's current OBD II regulations are generally more comprehensive and stringent than the comparable federal requirements. Under OBD II requirements, manufacturers must implement monitoring strategies for essentially all emission control systems and emission-related components. Generally, the OBD II regulation requires that components be monitored to indicate malfunctions when component deterioration or failure causes emissions to exceed 1.5 times the applicable tailpipe emission standards of the certified vehicle. The regulation also requires that components be monitored for functional performance even if the failure of such components does not cause emissions to exceed 1.5 times the standard. The federal requirements, in contrast, require monitoring only of the catalyst, engine misfire, evaporative emission control system, and oxygen sensors. Other emission control systems or components, such as exhaust gas recirculation and secondary air systems,

<sup>1</sup> *California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Decision*, dated October 3, 1996, 61 Fed.Reg. 53371 (October 11, 1996).

need only be monitored if by malfunctioning, vehicle emissions exceed 1.5 times the applicable tailpipe standards. No functional monitoring is required. Historically, virtually every vehicle sold in the U.S. is designed and certified to California's OBD II requirements in lieu of the federal OBD requirements.

ARB initially adopted the HD OBD regulation in 2005. A waiver for the regulation was granted by U.S. EPA in 2008.<sup>2</sup> The U.S. EPA has also adopted OBD requirements for vehicles and engines above 14,000 pounds, which is the weight range for California's "heavy-duty" class. The federal regulation, which was published on February 24, 2009, is consistent with ARB's California regulation in almost all important aspects, and while minor differences may exist between these requirements, heavy-duty OBD systems can be designed to comply with both the federal and California programs. In fact, U.S. EPA's regulation directly allows acceptance of systems that have been certified to California's HD OBD regulation and to date, all heavy-duty engine manufacturers have chosen this path for certification.

Finally, in 2004, the United States Supreme Court clarified the definition of emission standard as it applies to motor vehicles and motor vehicle engines, finding that emission standards relate to the emission characteristics of a vehicle or engine and that for compliance purposes require a motor vehicle or motor vehicle engine to emit no more than a certain amount of a given pollutant, be equipped with a certain type of pollution-control device, or have some other design feature related to the control of emissions. (*EMA*, 541 U.S. at 253.) An OBD system, in general, is a design feature related to the control of emissions and specifically establishes malfunction criteria that set numerical emission limits for pollutants for the purpose of detecting emission control system malfunctions. The proposed amendments are intended to make clear that the definition of emission standard as used in the OBD regulations conform to the federal definition as interpreted.

#### AVAILABILITY OF DOCUMENTS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Technical Status and Revisions to Malfunction and Diagnostic System Requirements for Heavy-Duty Engines (HD OBD) and Passenger Cars, Light-Duty

Trucks, and Medium-Duty Vehicles and Engines (OBD II).

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on July 5, 2012.

#### **Final Statement of Reasons Availability**

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

#### **Internet Access**

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2012/hdobd12/hdobd12.htm>.

#### AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mike McCarthy, Manager, Advanced Engineering Section, at (626) 771-3614 or Adriane Chiu, Air Resources Engineer, Advanced Engineering Section, at (626) 350-6453.

Further, nonsubstantive inquiries concerning the proposed administrative action may be directed to Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit at (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator at (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

#### FISCAL IMPACT

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

#### DISCLOSURES REGARDING THE PROPOSED REGULATION

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action

<sup>2</sup> *California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Decision*, dated August 13, 2008 73 Fed.Reg. 52042 (September 8, 2008).

would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

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

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The proposed revisions to the regulations consist primarily of providing interim relaxations of requirements and clarifying existing requirements. The only changes that are expected to affect costs involve the increased reporting requirements for the diesel misfire monitor and the two-year earlier implementation of full OBD for heavy-duty alternate-fueled engines. Regarding the diesel misfire monitor reporting requirements, the additional reporting costs to comply with the more comprehensive misfire monitoring requirements will result in total costs of about \$30,000 annually when the requirement is fully phased-in, which amounts to an incremental cost of less than \$0.56 per vehicle passed on to consumers. Thus, the costs related to heavy-duty engine manufacturers and medium-duty vehicle manufacturers are expected to be negligible. For heavy-duty alternate-fueled engines, the additional incremental cost for buyers of these vehicles has been estimated to range from \$21 per vehicle for vehicles from large volume manufacturers to \$207 per vehicle for small businesses. These costs, however, are expected to be offset by various financial incentives offered by the State and federal agencies that have ranged from \$7500 to \$32,000 per vehicle in past years. More details of this analysis are set forth in the ISOR.

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

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. Support for this determination is set forth in the ISOR.

#### **STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT PREPARED PURSUANT TO GOVERNMENT CODE SEC. 11346.3(b)**

The Executive Officer has determined that the proposed regulatory action would have minor or no impact on the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

#### **Benefits of the Proposed Regulation:**

As set forth above, the proposed HD OBD and OBD II amendments will provide engine manufacturers with greater compliance flexibility and clarify the performance requirements that they are expected to meet in designing and developing robust OBD systems. This in turn will encourage manufacturers to design and build more durable engines and emission-related components, all of which will help ensure that forecasted emission reduction benefits from adopted medium- and heavy-duty engine emission control programs are achieved in-use. A detailed assessment of the economic impacts of the proposed regulatory action and ascribed benefits can be found in the Economic Impact Analysis in the ISOR.

#### **EFFECT ON SMALL BUSINESS**

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action may affect small businesses. There are an estimated nine alternate-fueled engine conversion manufacturers, some of which may be considered "small businesses", though the exact number cannot be determined. One of these manufacturers is located in California. A typical small business is an alternate-fueled engine conversion manufacturer that converts up to 500 diesel or gasoline engines per year to run on alternate fuels. An analysis was conducted that estimates the cost of the proposed amendments on such a small business at \$212,000 over two years. Such small businesses would be expected to pass these costs on to the purchaser of the engine in the form of increased retail price for the converted engine as noted above in the cost impacts on private persons or businesses.

#### **REPORTING REQUIREMENTS**

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer

has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

### ALTERNATIVES

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board (which includes during preliminary workshop activities), 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 provisions of law.

### ENVIRONMENTAL ANALYSIS

In accordance with ARB's certified regulatory program, California Code of Regulations, title 17, sections 60006 through 60007, and the California Environmental Quality Act, Public Resources Code section 21080.5, ARB has conducted an analysis of the potential for significant adverse and beneficial environmental impacts associated with the proposed regulatory action. The environmental analysis of the proposed regulatory action can be found in Chapter III of the ISOR.

### SUBMITTAL OF COMMENTS AND WRITTEN COMMENT PERIOD

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on Monday, July 9, 2012. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after Monday, July 9, 2012 and received **no later than 12:00 noon on Wednesday, August 22, 2012**, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board  
1001 I Street  
Sacramento, California 95814

Electronic submittal:  
<http://www.arb.ca.gov/lispub/comm/bclist.php>

You can sign up online in advance to speak at the Board meeting when you submit an electronic board

item comment. For more information go to: <http://www.arb.ca.gov/board/online-signup.htm>.

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board members have additional time to consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39010, 39600, 39601, 43000.5, 43013, 43016, 43018, 43100, 43101, 43104, 43105, 43105.5, 43106, 43154, 43211, and 43212. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39010, 39018, 39021.5, 39024, 39024.5, 39027, 39027.3, 39028, 39029, 39031, 39032, 39032.5, 39033, 39035, 39037.05, 39037.5, 39038, 39039, 39040, 39042, 39042.5, 39046, 39047, 39053, 39054, 39058, 39059, 39060, 39515, 39600, 39601, 43000, 43000.5, 43004, 43006, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43105.5, 43106, 43150, 43151, 43152, 43153, 43154, 43155, 43156, 43204, 43205, 43211, and 43212 of the Health and Safety Code.

### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

#### **SPECIAL ACCOMMODATION REQUEST**

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; or
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alterno u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

### **TITLE 13. DEPARTMENT OF MOTOR VEHICLES**

#### **NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (department) proposes to adopt Sections 153 through 153.22 in Article 3.0, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to Vehicle Registration and Titling.

#### **PUBLIC HEARING**

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will

be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

#### **DEADLINE FOR WRITTEN COMMENTS**

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., **AUGUST 20, 2012**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

#### **AUTHORITY AND REFERENCE**

The department proposes to adopt this regulation under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code section 4450.5.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Department of Motor Vehicles (department) proposes to adopt sections 153.00 through 153.22 in Article 3.0, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to Vehicle Registration and Titling.

Assembly Bill 1515 (Chapter 540, Statutes of 2009) enacted Vehicle Code section 4450.5 requiring the department to develop an Electronic Lien and Titling Program in consultation with lien holders and other stakeholders. This will require that all lien holders' title information be held in an electronic format.

Per the requirements of AB 1515, the department conducted an evaluation of the effectiveness of the current ELT program and offered three alternatives for implementation. The department chose to implement the program through their second alternative, which will require updates to the existing ELT system along with new regulations and an improved contract management process. This option will require all financial institutions to participate in the ELT program. Based on this alternative, the changes will achieve a savings of approximately \$1.7 million annually over a five-year period. These savings will be achieved through less processing, secure paper, printing, and mailing costs to the department.

This action provides information to mandatory and voluntary participants regarding the application pro-

cess and eligibility requirements for the Electronic Lien and Title (ELT) Program. Each participant must provide proof of connectivity with a software/service provider in order for approval as a participant.

This action provides information to participants and ELT Service Providers regarding their responsibilities and security requirements.

This action also provides information to participants and ELT Service Providers regarding causes for refusal of eligibility in the ELT Program, authority of the department to investigate and review records, information regarding participant changes, and information regarding cancellation or termination from the program.

This action specifically benefits the Department of Motor Vehicles by achieving a savings of approximately \$1.7 million annually over a five-year period which will be achieved through less processing, secure paper, printing, and mailing costs. It will also reduce the average cost for tracking, handling, and storing of title information from \$12 down to approximately \$2 per title. This action will benefit the lienholders by allowing them to hold their titles electronically allowing them to replace the large banks of paper titles with the electronic records. This action also specifically benefits the public because it will save them time and money and their information is more secure. With paper titles, they get lost, stolen, and destroyed. This necessitates paying for a duplicate title in order to transfer or sell a vehicle, along with the time frame for waiting. Also, when a vehicle has been financed and is paid off, they normally would get the title signed off by the lender and it would be their responsibility to turn it in to DMV to remove the lien. Many times people forget to turn it in, the document gets lost, and by the time they attempt to get a lien release, the company has moved or gone out of business and is untraceable. With Electronic Titles, once a lien has been paid, the new title is then issued for the first time and sent to the owner with the lien already removed. With the ELT database, the information is held securely within an online database system with only authorized people given access, so names and addresses are not on paper sitting in a file cabinet in someone's office just waiting to be stolen.

The proposed regulations are not inconsistent or incompatible with existing state regulations because no other regulations impact the Electronic Lien and Title Program.

#### DOCUMENTS INCORPORATED BY REFERENCE

The following documents are incorporated by reference in section 153.02:

- ELECTRONIC LIEN AND TITLE (ELT) PROGRAM FINANCIAL INSTITUTION /LENDER APPLICATION, REG 671 (NEW 11/2011)
- ELECTRONIC LIEN AND TITLE (ELT) PROGRAM SERVICE PROVIDER APPLICATION, REG 670 (NEW 11/2011)

The following document is incorporated by reference in section 153.04:

- ELECTRONIC LIEN AND TITLE SERVICE PROVIDER PERMIT, REG 672 (NEW 11/2011)

The following document is incorporated by reference in section 153.08:

- INFORMATION SECURITY AND DISCLOSURE STATEMENT PUBLIC/PRIVATE PARTNERSHIPS EMPLOYEE, EXEC 200X, (REV. 3/2003)

These documents are not published in the California Code of Regulations because it would be impractical and cumbersome to do so; however, these documents are readily available to interested parties by contacting the department representative identified below.

#### FISCAL IMPACT STATEMENT

- Cost or Savings to Any State Agency: \$1.7 million annually to DMV.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effects on Housing Costs: None.

#### DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

- The proposed regulatory action will not affect small businesses. This proposal implements an ELT program as required by AB 1515 requiring all financial institutions to participate in an ELT program.

#### PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

#### RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Assembly Bill 1515 (Chapter 540, Statutes of 2009), a bill sponsored by the Electronic Titling industry, enacted Vehicle Code section 4450.5 requiring the department to develop an Electronic Lien and Titling Program in consultation with lien holders and other stakeholders. This will require that all lien holders' title information be held in an electronic format.

Per the requirements of AB 1515, the department conducted an evaluation of the effectiveness of the current ELT program and offered three alternatives for implementation. The department chose to implement the program through their second alternative, which will require updates to the existing ELT system along with new regulations and an improved contract management process. This option will require all financial institutions to participate in the ELT program. Based on this alternative, the changes will achieve a savings of approximately \$1.7 million annually over a five-year period. These savings will be achieved through less processing, secure paper, printing, and mailing costs to the department. The current ELT system design can be utilized, eliminating the need for providers to invest in costly new equipment. In fact, current ELT service providers will see no changes to their current processes.

This option will also reduce lienholders' costs associated with the handling of paper titles. Benefits to lienholders will be realized through reduction in work effort, lower costs, no storage requirements, and better customer service by avoiding lost paper titles.

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

This regulation will neither create nor eliminate jobs within the State of California; however, existing jobs will see improved efficiencies and be able to perform those jobs with more accuracy.

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

This regulation will neither create nor eliminate businesses within the State of California. The proposal allows businesses to move towards a different form of title management. Lienholders will be able to replace the large banks of paper titles with electronic records. Businesses that would function in the program may do so using the resources and technology already at their disposal, negating the need to procure computers and other large equipment. The average cost for tracking, handling and storing a title can range from \$8 to \$12 per paper title. Using ELT, that cost is greatly reduced to only \$2 per title.

#### **Expansion of Businesses Currently Doing Business Within the State of California**

This regulation will neither expand nor contract businesses currently doing business within the State of California.

#### **Benefits of Regulation to the Health and Welfare of California Residents, Worker Safety and the State's Environment**

This regulation has no benefits to the Health and Welfare of California residents, worker safety, or the State's environment.

#### ALTERNATIVES CONSIDERED

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed 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

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

Ally Grayson, Associate Governmental  
Program Analyst  
Department of Motor Vehicles  
Legal Affairs Division  
P.O. Box 932382, MS C-244  
Sacramento, CA 94232-3820  
Telephone: (916) 657-6469  
Facsimile: (916) 657-6243  
E-mail: LRegulations@dmv.ca.gov

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

Randi Calkins, Regulations Coordinator  
Telephone: (916) 657-6469

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

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. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at [www.dmv.ca.gov/about/lad/regactions.htm](http://www.dmv.ca.gov/about/lad/regactions.htm).

**AVAILABILITY OF MODIFIED TEXT**

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

**TITLE 14. DEPARTMENT OF FISH AND GAME**

The Department of Fish and Game (Department) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Department will hold a public hearing starting at 11:00 a.m. on August 20, 2012, in Conference Room

405 at the Rattigan State Office Building, 50 D Street, Santa Rosa, California 95404. The conference room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests but does not require that the persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. All written comments must be received by the Department at this office no later than 5:00 p.m. on August 20, 2012. All written comments must include the true name and mailing address of the commenter.

Written comments may be submitted by mail, fax, or e-mail, as follows:

Department of Fish and Game  
Marine Region  
Peter Kalvass, Senior Environmental Scientist  
32330 North Harbor Dr.  
Fort Bragg, CA 95437  
Fax: (707) 964-0642  
Email: [pkalvass@dfg.ca.gov](mailto:pkalvass@dfg.ca.gov)

**AUTHORITY AND REFERENCE**

The addition of Fish and Game Code Section 8276.5 authorizes the Department to adopt these proposed regulations. This proposed rulemaking will implement, interpret, and make specific Fish and Game Code Section 8276.5.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The passing of SB369 in 2011 added Section 8276.5 to the Fish and Game Code, which imposes trap limits on Dungeness crab vessel permitholders. A copy of Senate Bill 369 can be found at this link:

[http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0351-0400/sb\\_369\\_bill\\_20110926\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0351-0400/sb_369_bill_20110926_chaptered.pdf).

The legislative statute authorizes the Department under the authority of the Director to implement the program. The Department's Marine Region (MR), Law Enforcement Division (LED), and License and Revenue Branch (LRB) have drafted new regulations to be adopted in Title 14 of the California Code of Regulations (CCR). The regulations were designed with the intent that each permitholder can only operate the number

of traps within their trap tier limits. In addition, the Dungeness Crab Task Force after reviewing the Department's regulations, has approved the new regulations with a vote in the affirmative, which is "considered to be evidence of consensus in the Dungeness crab industry" as stated in section 8276.5(c) of the Fish and Game Code.

Permitholders will be assigned to one of seven trap tiers between 175 and 500 traps. Dungeness crab permitted vessels will no longer be able to fish more than the crab trap allotment tier to which they are assigned. During the commercial Dungeness crab season, each Dungeness crab trap on board a permitted vessel will be required to have a Department-issued buoy tag affixed to the main buoy and a proper trap tag affixed to the trap. These traps can only be used for the commercial take of crab.

The Department-issued buoy tags will be assigned and distributed by LRB to the Dungeness crab vessel permitholder while the trap tag will be provided by the permitholder. For each trap in their tier, permitholders must purchase a Department-issued buoy tag assigned to their permit at the same time they purchase their biennial trap limit permit and renew their Dungeness crab vessel permit. Buoy tags and trap limit permits are required to be purchased every other year, biennially. Fees for the buoy tag and permit will be updated and contained in Section 705, Title 14, CCR, commercial fishing applications, permits, tags and fees and will be collected by LRB.

Trap limits and Department-issued buoy tags can only be transferred as part of a transaction authorized in Section 8280.3 of the Fish and Game Code, and those permitholders in Tier 7 with 175 traps will not be able to transfer tags for the first two years of the program. Any person with a valid northern or southern rock crab permit aboard a permitted Dungeness crab vessel will not be able to fish with rock crab traps 30 days prior to the pre-soak period or commercial Dungeness crab season opener, whichever comes first. Vessels with both a Commercial Passenger Fishing Vessel (CPFV) license and a Dungeness crab permit may fish for Dungeness crab, either recreationally or commercially, during the commercial Dungeness crab season only.

Dungeness crab permitholders will still be able to contract an unpermitted vessel for the use of deploying their crab traps as specified in Section 8280.7 of the Fish and Game Code. To prevent permitted vessels from fishing more traps in their tier, but accommodate instances when it is necessary to retrieve derelict traps, permitted vessels will be allowed to retrieve up to six such traps in season and any number of traps between July 16th and October 31st of each year. In the event that a permitted vessel is unable to retrieve its traps in season, waivers can be granted by the Department for the

purpose of granting permission for another permitted vessel to retrieve those traps.

The replacement procedures for lost or damaged Department-issued buoy tags will allow for permitholders to purchase replacement tags in-season or new tags between each season of the biennial period. Up to 10% of a permitholder's buoy tag allotment tier can be purchased in-season after 30 days from the start of the season where the permitholder began fishing. These replacement tags must be returned to the Department between seasons, and permitholders at this time have the option of purchasing any number of new tags in order to replenish all lost or damaged Department-issued buoy tags in their tier. In the event that tags are lost or damaged due to circumstances beyond the control of the permitholder, the fee and maximum allocation for replacement tags in-season may be waived if the event can be justified. Fees for the replacement tags are summarized in Section 705, Title 14, CCR, and will be collected by LRB.

Permitholders can request an appeal to either increase or decrease the trap allotment tier to which they are assigned provided that the appeal is postmarked to the director before March 31, 2014. The appeal process will be initiated within 12 months of the postmarked date as stated in statute. The fees to either increase or decrease a trap allotment tier will be updated and contained in Section 705, Title 14, CCR, and will be collected by LRB.

A summary of the proposed regulations to be added to Title 14, CCR:

- 1) Section 132.1 explains the proper use of the trap tags and Department-issued buoy tags on commercially fished Dungeness crab traps on board permitted vessels, and further defines the trap and buoy tag allocations already in statute;
- 2) Section 132.2 details the instances when a permitted vessel may have derelict traps on board including the waiver process for a permitted Dungeness crab vessel to retrieve another vessel's Dungeness crab traps;
- 3) Section 132.3 describes the application process for purchasing the new biennial Dungeness crab trap limit permit;
- 4) Section 132.4 details the replacement procedures for lost Department-issued buoy tags, and;
- 5) Section 132.5 describes the appeal process for Dungeness crab trap and buoy tag allocations and deadlines;
- 6) Section 705 is amended with the biennial crab trap limit permit fee, the price per Department-issued buoy tag and replacement tags, as well as the appeal fees to either increase or decrease trap allotment tiers.

The specific benefits anticipated by the adoption of these regulations will help to ensure that each permit holder operates no more than their allotted number of traps with the proper use of department-issued buoy tags assigned to each permitted vessel, while allowing for those instances when it is necessary to retrieve another permit holder's traps. The regulations also address the specific procedures to purchase a biennial trap limit permit, to replace lost or damaged department-issued tags, and to request an appeal to either increase or decrease trap tiers.

The proposed regulations have been evaluated and found to be consistent or compatible with the existing state or federal regulations. Fish and Game Code section 8276.5 authorizes the Department to adopt these proposed regulations in order to implement this code section.

Forms Incorporated by Reference:

- 1) 2013–2014 In–Season Replacement Dungeness Crab Buoy Tag Affidavit (FG 1303 Rev. 05/12));
- 2) 2014 Between–Season Replacement Dungeness Crab Buoy Tag Affidavit (FG 1302 Rev. 05/12)

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Costs or savings to any state agency: It is estimated that staff time to process requests related to these rules will be absorbed in the normal course of business. However, the actual costs may be higher if appeals, waivers and replacement tag requests are higher than expected.

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.

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

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

Cost impacts on a representative private person or business: Since these proposed regulations further refine costs and trap limit program procedures that are already described in legislative statute there are no additional cost impacts on a representative private person or business.

Effect on Small Business: The Department is not aware of any effects that a small business would necessarily incur in reasonable compliance with the proposed action. The costs associated with purchasing depart-

ment-issued buoy tags, replacement tags, and the biennial trap limit permit as well as the appeal process are already described in statute while the proposed regulations only further specify the application procedures.

Housing Costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

These proposed rules are designed to effectively and smoothly facilitate implementation of an existing statutory crab trap program. The rules themselves are not expected to significantly adversely impact California jobs and businesses. These rules were created with extensive input from the Dungeness crab industry via the Dungeness Crab Task Force and are designed to implement the trap program with the least impact on the crab fishing industry within the framework delineated in section 8276.5(c) of the Fish and Game Code. These rules specify fee amounts, procedures and processes for waivers and appeals, as well as for purchasing replacement buoy tags and the Dungeness Crab Trap Limit Permit. The tags, permits, fees and their maximum costs are authorized in statute and so their impacts are not addressed directly in this impact analysis.

Adoption of these regulations will not:

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

Adoption of these regulations will:

- (1) Help to ensure that Dungeness crab permitted vessels commercially fish for Dungeness crab within their trap tier limits;
- (2) Ensure that commercial Dungeness crab traps are for the exclusive use of commercial Dungeness crab fishing as a measure to help sustain the crab resources;
- (3) Limit those Dungeness crab permit holders who also possess a Commercial Passenger Fishing Vessel license to only recreationally fish for crab during the commercial season in order to prevent pre-season prospecting;
- (4) Prevent those Dungeness crab permit holders who also possess a rock crab permit from fishing for rock crab 30 days before the Dungeness crab season opens, to limit pre-season prospecting;
- (5) Grant permit holders, in the event of emergency circumstances, a no-cost waiver from the Department that allows them to retrieve another permit holder's tagged commercial traps in-season.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternatives it considered to the regulation or that have 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.

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

**CONTACT PERSONS**

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

Name: Peter Kalvass  
Address: 32330 North Harbor Dr.  
Fort Bragg, CA 95437  
Telephone No.: (707) 964-9080  
Fax: (707) 964-0642  
Email: [pkalvass@dfg.ca.gov](mailto:pkalvass@dfg.ca.gov)

or:

Name: Christy Juhasz  
Address: 5355 Skylane Blvd., Ste. B  
Santa Rosa, CA 95403  
Telephone No.: (707) 576-2887  
Fax: (707) 576-7132  
Email: [cjuhasz@dfg.ca.gov](mailto:cjuhasz@dfg.ca.gov)

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

Please direct requests for copies of the proposed text (the "express terms") 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, to Peter Kalvass or Christy Juhasz at the above addresses.

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above addresses. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the regu-

lations, and the initial statement of reasons. Copies may be obtained by contacting the Department.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Peter Kalvass or Christy Juhasz at the addresses posted in this document. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the Department at the addresses posted in this document.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: [www.dfg.ca.gov/news/pubnotice](http://www.dfg.ca.gov/news/pubnotice).

**TITLE 14. FISH AND GAME COMMISSION**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050, 5510, 8389, 8550, 8552.1, 8553 and 8555, of the Fish and Game Code and to implement, interpret or make specific sections 713, 1050, 7850, 7850.5, 7852.2, 7881, 8043, 8053, 8389, 8550-8557, and 8559 of said Code, proposes to amend sections 163 and 164, Title 14, California Code of Regulations, relating to the commercial herring fishery.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Under existing law, herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Commission shall prescribe. Current regulations specify: permittee qualifications;

permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; and landing and monitoring requirements.

The proposed regulations would establish the fishing quota, season dates and times for fishing operations for the 2012–2013 season in San Francisco Bay based on the most recent biomass assessments of spawning populations of herring as well as season dates and times for fishing operations for the 2012–2013 season in Tomales Bay. There are no quota changes proposed for Crescent City Harbor, Humboldt or Tomales bays for the 2012–2013 herring season.

The following is a summary of the proposed changes in Sections 163, and 164, Title 14, CCR:

- Set the San Francisco Bay quota between zero (0) and 10 percent (0 and 6,099 tons) of the 2011–2012 spawning biomass. The Department is recommending that the San Francisco Bay quota be set at 2,854 tons, which is approximately five percent of the 2011–2012 spawning biomass. If the Commission were to adopt this option, a 2,854 ton quota would result in a 5.0 ton individual quota for a “CH” gill net permittee and a 3.1 ton individual quota for a non-“CH” gill net permittee participating in the HEOK fishery.
- Set the dates of the roe herring fisheries in San Francisco Bay for Odd and Even platoons in San Francisco Bay from 8:00 a.m. on Wednesday, January 2, 2013, until noon on Friday, March 15, 2013.
- Set the dates of the roe herring fishery in Tomales Bay from noon on Wednesday, December 26, 2012, until noon on Friday, February 22, 2013.

The proposed regulatory action will benefit fishermen, processors, and the State’s economy in the form of a healthy sustainable fishery, and future harvestable herring populations.

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

The proposed regulations are neither inconsistent nor incompatible with existing state regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, on all actions relevant to this action at a hearing to be held in the State of California Resources Building, First Floor Auditorium, 1416 Ninth Street, Sacramento, California, on Wednesday, October 3, 2012, at 10:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or

before September 26, 2012, at the address given below, or by fax at (916) 653–5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 1, 2012. All comments must be received no later than October 3, 2012, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sheri Tiemann at the preceding address or phone number. **Mr. John Mello, Marine Region, Department of Fish and Game, (707) 441–5755 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

**Availability of Modified Text**

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

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

**Impact of Regulatory Action/Results of the Economic Impact Analysis**

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

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

The Department is providing the Commission a quota option range between zero to 10 percent of

the 2011–2012 spawning biomass estimate of 60,985 tons. The potential changes to total State economic output, if the Commission were to choose a 10 percent, five percent, or zero percent option, are \$2,062,000, \$564,000, and \$(753,000), respectively, relative to last season. Both the 10 and five percent options result in positive incremental contributions to total economic output for the State, whereas the zero percent option would result in an adverse economic impact to the State and loss of as much as \$753,000 (2011 dollars) in total economic output. This is based on an economic output multiplier of 1.99 used in calculating total direct, indirect, and induced effects arising from the California herring fishery.

Depending on which harvest option the Commission chooses for 2012–2013, the harvestable quota will be between zero and 6,099 tons. No adverse economic impacts to businesses in California would occur under the Department’s recommended five percent quota of 2,854 tons. Moreover, given the overriding market conditions for herring roe (declining demand overseas and lower prices), none of the quota options are expected to affect the ability of California businesses to compete with businesses in other states.

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

Depending on which harvest option the Commission chooses for 2012–2013, the harvestable quota will be between zero and 6,099 tons. Both the 10 percent and five percent harvest options, result in positive incremental contributions to employment for the State of about 13 and four jobs, respectively, whereas a zero percent harvest could result in as much as 196 potential job losses. This is based on an employment multiplier of 12.7 jobs per each million dollar change in direct economic output from fishing activities in the California herring fishery, and a fleet of about 190 permittees.

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

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

The Commission anticipates benefits to the environment by the sustainable management of California’s herring resources.

- (c) Cost Impacts on a Representative Private Person or Business:  
The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new fees or reporting requirements stipulated under the proposed regulations.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

**Effect on Small Business**

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

**Consideration of Alternatives**

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

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

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

**SULFUR DIOXIDE (SO<sub>2</sub>)**

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) pro-

poses to establish a Proposition 65<sup>1</sup> Maximum Allowable Dose Level (MADL) for sulfur dioxide (SO<sub>2</sub>) of 220 micrograms per day by amending Section 25805(b) of Title 27 of the California Code of Regulations<sup>2</sup>.

PUBLIC PROCEEDINGS

Any written comments concerning this proposed action, regardless of the form or method of transmission, must be received by OEHHA by 5:00 p.m. on **August 20, 2012**, the designated close of the written comment period. All comments received will be posted on the OEHHA website at the close of the public comment period.

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

**Mailing Address:** Ms. Susan Luong  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010, MS-19B  
Sacramento, California 95812-4010  
Fax: (916) 323-8803  
Street Address: 1001 I Street  
Sacramento, California 95814

A public hearing on this proposed regulatory amendment will be scheduled on request. To request a hearing send an e-mail to Susan Luong at [susan.luong@oehha.ca.gov](mailto:susan.luong@oehha.ca.gov) or to the address listed above by no later than **August 6, 2012**, which is 15 days before the close of the comment period. OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days before the public hearing date. The notice will provide the date, time, and location of the hearing.

If a hearing is scheduled and you have special accommodation or language needs, please contact Susan Luong at (916) 327-3015 or [susan.luong@oehha.ca.gov](mailto:susan.luong@oehha.ca.gov) at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

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

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

CONTACT

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Proposition 65 prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the State to cause cancer or reproductive toxicity, without first giving clear and reasonable warning to such individual<sup>3</sup>. The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where such chemical passes or probably will pass into any source of drinking water<sup>4</sup>. Warnings are not required and the discharge prohibition does not apply when exposures are insignificant.<sup>5</sup> The MADL safe harbors provide guidance for determining when this is the case.<sup>6</sup>

Details on the basis for the proposed MADL for sulfur dioxide (SO<sub>2</sub>) are provided in the Initial Statement of Reasons for this regulatory amendment, which is available on request from Susan Luong and is posted on the OEHHA web site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

This proposed regulation sets forth a MADL for adoption into Section 25805 that was derived using scientific methods outlined in Section 25803.

The proposed regulation would adopt the following MADL for sulfur dioxide (SO<sub>2</sub>), by amending Section 25805 as follows (addition in underline):

(b) Chemical Name	Level (Micrograms/day)
<u>Sulfur dioxide</u>	<u>220</u>

OEHHA reviewed relevant studies on the developmental toxicity of sulfur dioxide, which were identified through comprehensive searches of the scientific literature. For purposes of Proposition 65, the study by Murray et al.<sup>7, 8</sup> in mice is the most sensitive study deemed to be of sufficient quality as defined in Section

<sup>3</sup> Health and Safety Code section 25249.6.

<sup>4</sup> Health and Safety Code section 25249.5.

<sup>5</sup> Health and Safety Code sections 25249.9 and 25249.10.

<sup>6</sup> See sections 25801 to 25805.

<sup>7</sup> Murray FJ, Schwetz BA, Crawford AA, Henck JW, Quast JF, Staples RE (1979). Embryotoxicity of inhaled sulfur dioxide and carbon monoxide in mice and rabbits. *J Environ Sci Health C* 13(3):233-50.

<sup>8</sup> Murray FJ, Schwetz BA, Crawford AA, Henck JW, Staples RE (1977). Teratogenic potential of sulfur dioxide and carbon monoxide in mice and rabbits. *Doe Symp Ser* 47:469-478.

25803(a)(7) for exposure to sulfur dioxide. OEHHA relied on the values from this study as the basis for calculating the MADL for sulfur dioxide proposed for adoption into Section 25805(b).

#### RESULTS OF ECONOMIC IMPACT ANALYSIS

(Gov. Code section 11346.3(b))

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

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

This regulatory proposal will not affect the creation or elimination of jobs within the State of California. Proposition 65 requires businesses with ten or more employees to provide warnings when they expose people to chemicals that are known to cause cancer or reproductive harm. The law also prohibits the discharge of listed chemicals into sources of drinking water. Sulfur dioxide is listed under Proposition 65; therefore businesses that expose the public or employees to sulfur dioxide through their operations or products must provide a warning.

Because the proposed MADL provides compliance assistance to businesses subject to the Act, but does not impose any mandatory requirements on those businesses, OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

#### **No Inconsistency or Incompatibility with Existing Regulations**

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

#### **Benefits of the Proposed Regulation**

Some businesses may not be able to afford the expenses of establishing a MADL and therefore may face litigation for a failure to warn or for a prohibited discharge of the listed chemical. Adopting this regulation will save these businesses those expenses and may reduce litigation costs. In addition, by providing a

MADL, this regulatory proposal may encourage businesses to lower the amount of the listed chemical in their products to a level that does not require a warning. This in turn may reduce exposures to sulfur dioxide and reduce resident, worker and environmental exposures to chemicals that cause reproductive toxicity.

#### PEER REVIEW

This notice and the Initial Statement of Reasons will be provided to the Developmental and Reproductive Toxicant Identification Committee for scientific peer review and comment.

#### AUTHORITY

Health and Safety Code Section 25249.12.

#### REFERENCE

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

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Because Proposition 65 expressly<sup>9</sup> does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

#### COSTS OR SAVINGS TO STATE AGENCIES

Because Proposition 65 expressly<sup>10</sup> does not apply to any State agency, OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

#### EFFECT ON FEDERAL FUNDING TO THE STATE

Because Proposition 65 expressly<sup>11</sup> does not apply to any federal agency, OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

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

<sup>10</sup> See Health and Safety Code Section 25249.11(b).

<sup>11</sup> See Health and Safety Code Section 25249.11(b).

EFFECT ON HOUSING COSTS

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

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

Because the proposed regulatory level provides compliance assistance to businesses subject to the Act, but does not impose any mandatory requirements on those businesses, OEHHA has made an initial determination that the adoption of the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The proposed MADL was developed to provide compliance assistance for these businesses in determining whether a warning is required or a discharge is prohibited. The MADL provides a level of exposure at or below which a warning is not required and a discharge is not prohibited. Use of the MADL is not mandatory. The implementing regulations allow a business to calculate its own level and provide guidance in order to assist businesses in doing so.<sup>12</sup> However, conducting such a process can be expensive and time consuming, and the resulting levels may not be defensible in an enforcement action.

EFFECT ON SMALL BUSINESSES

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

<sup>12</sup> Title 27, Cal. Code of Regs., section 25801 et seq.

CONSIDERATION OF ALTERNATIVES

Government Code section 11346(a)(13) requires that OEHHA must determine that no reasonable alternative considered by the OEHHA or that has otherwise been identified and brought to the attention of the OEHHA would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

FINAL STATEMENT OF REASONS

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

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND GAME**

CESA CONSISTENCY DETERMINATION  
 REQUEST FOR  
 Mill Creek Bridge Scour Repair & Deck  
 Rehabilitation Project  
 (2080-2012-012-01)  
 Tehama County

The Department of Fish and Game (Department) received a notice on June 21, 2012, that the California Department of Transportation (Caltrans) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves correcting existing scour, preventing future scour and rehabilitating the bridge deck. The project will also include construction of an access road, excavation of a stream diversion, placing bridges over the diversion to access both sides of the creek, replacing the bridge deck with polyester overlay, and adjusting the existing guard-rail. The proposed project will occur in Tehama County, California.

The National Marine Fisheries Service (Service) issued a "no jeopardy" federal biological opinion (Service File No. 151422SWR-2009-00570)(BO) and incidental take statement (ITS) to Caltrans on March 29, 2012, which considered the effects of the project on the state and federal threatened Spring-run chinook salmon (*Oncorhynchus tshawytscha*) of the Sacramento River drainage.

Pursuant to California Fish and Game Code Section 2080.1, Caltrans is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed project. If the Department determines the BO and ITS are consistent with CESA for the proposed project, Caltrans will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

**SUMMARY OF REGULATORY ACTIONS**

**REGULATIONS FILED WITH SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State,

Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2012-0518-02  
 CALIFORNIA HORSE RACING BOARD  
 Entry of Claimed Horse

The California Horse Racing Board amended section 1663 of title 4 of the California Code of Regulations to provide that if a horse is entered in a claiming race within 25 days of being claimed: (1) a horse that won the claiming race from which it was claimed shall start in a claiming race for at least 25 percent more than the price at which it was claimed, and (2) a horse that did not win the claiming race from which it was claimed shall start at a price equal to, or greater than, the price at which it was claimed.

Title 4  
 California Code of Regulations  
 AMEND: 1663  
 Filed 06/25/2012  
 Effective 07/25/2012  
 Agency Contact: Harold Coburn (916) 263-6397

File# 2012-0615-01  
 CALIFORNIA POLLUTION CONTROL  
 FINANCING AUTHORITY  
 California Capital Access Program for Small Business

The California Pollution Control Financing Authority submitted this deemed emergency action, pursuant to Health & Safety Code section 44520(b), to amend five sections pertaining to the Capital Access Program for Small Businesses under title 4, division 11, article 7 of the California Code of Regulations. As a result of federal funding allocations to the program in 2011, CPCFA is developing a collateral support program that will be organized slightly differently than the current Capital Access Program. Clarification of the existing regulations is necessary to operate both programs harmoniously and ensure the functionality of the two programs.

Title 4  
 California Code of Regulations  
 AMEND: 8070, 8071, 8072, 8078, 8078.2  
 Filed 06/25/2012  
 Effective 06/25/2012  
 Agency Contact: Jillian Franzoia (916) 653-3993

File# 2012-0515-03  
 COMMISSION ON PEACE OFFICER STANDARDS  
 AND TRAINING  
 Training & Testing Specifications

This rulemaking action by the Commission on Peace Officer Standards and Training (POST) updates two Learning Domains in the Training and Testing Specifi-

cations for Peace Officer Basic Courses, which is incorporated by reference in sections 1005, 1007, and 1008 of title 11 of the California Code of Regulations.

Title 11  
 California Code of Regulations  
 AMEND: 1005, 1007, 1008  
 Filed 06/26/2012  
 Effective 07/01/2012  
 Agency Contact: Cheryl Smith (916) 227-0544

File#2012-0515-02  
**COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING**  
 Revise Basic Course Physical Conditioning Program

This rulemaking amends Title 11 sections 1005 and 1007 of the California Code of Regulations. This amendment repeals an obsolete manual, the "Basic Academy Physical Conditioning Manual — 1996." The "Training and Testing Specifications for Peace Officer Basic Courses" was revised in January 2012 to include much of the information in the obsolete manual. This rulemaking also adopts the "Work Sample Test Battery Proctor Manual" that contains physical ability testing procedures.

Title 11  
 California Code of Regulations  
 AMEND: 1005, 1007  
 Filed 06/21/2012  
 Effective 07/21/2012  
 Agency Contact: Patti Kaida (916) 227-4847

File# 2012-0615-02  
**CORRECTIONS STANDARDS AUTHORITY**  
 2007 Local Jail Construction Funding

This is a readoption of emergency regulatory action 2011-1114-04EON that amended some sections and adopted some sections within Title 15 of the California Code of Regulations. This emergency is CSA's implementation of the \$1.2 billion 2007 Local Jail Construction Program authorized by AB 900 (Stats. 2007, Chap. 7) (Solorio) as amended by AB 111 and AB 94 (Stats. 2011). The original legislation in AB 900 resulted in Phase I of the Local Jail Construction Financing Program. The 2011 Realignment Legislation Addressing Public Safety (AB 111, CH 16, Stats. 2011 and AB 94, CH 23, Stats. 2011) amended AB 900 and resulted in Phase II of the Local Jail Construction Financing Program. Five new regulations were adopted and 27 regulations were amended which establish Phase II of the county jail bond funding program. One of the main differences from Phase I to Phase II is the deletion of the requirement that CSA give funding preference to counties that assist the state in siting specified facilities and

instead requiring CSA to give preference to counties that committed the largest percentage of inmates to state custody in relation to the total inmate population of the department in 2010. Phase II also deletes the provision prohibiting the department and CSA from awarding funds until specified construction progress and siting requirements are met. Further, in Phase II the minimum 25% contribution of county matching funds is reduced to 10%. Phase II also allows counties to relinquish their Phase I funding to apply for the Phase II funding instead.

Title 15  
 California Code of Regulations  
 ADOPT: 1712.1, 1714.1, 1730.1, 1740.1, 1748.5  
 AMEND: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.1, 1747.5, 1748, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788 REPEAL: 1757  
 Filed 06/26/2012  
 Effective 06/26/2012  
 Agency Contact:  
 Charlene Aboytes (916) 445-5073

File# 2012-0606-07  
**DEPARTMENT OF CORRECTIONS AND REHABILITATION**  
 Postrelease Community Supervision

The California Department of Corrections and Rehabilitation adopted this operational necessity action pursuant to Penal Code section 5058.3 to amend three sections and adopt two sections in title 15 of the California Code of Regulations. The action also amends three forms and adopts a new form. This action implements the Postrelease Community Supervision Act of 2011, which was enacted in AB 109 (Stats. 2011, ch. 15).

Title 15  
 California Code of Regulations  
 ADOPT: 3079, 3079.1 AMEND: 3000, 3075.2, 3075.3  
 Filed 06/26/2012  
 Effective 06/26/2012  
 Agency Contact: Sarah Pollock (916) 445-2266

File# 2012-0606-08  
**DEPARTMENT OF CORRECTIONS AND REHABILITATION**  
 Inmate Classification Score System

The California Department of Corrections and Rehabilitation (CDCR) amended sections 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, and 3521.2 in title 15 of the California Code of Regulations. This emergency regulatory action, submitted to the Office of Administrative Law (OAL) pursuant to Penal Code section 5058.3 as operationally

necessary, makes changes to the inmate classification score system. This filing is deemed an emergency by the Legislature pursuant to Penal Code section 5058.3.

Title 15  
California Code of Regulations  
AMEND: 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, 3521.2  
Filed 06/26/2012  
Effective 07/01/2012  
Agency Contact: Josh Jugum (916) 445-2228

File# 2012-0605-01  
DEPARTMENT OF HEALTH CARE SERVICES  
Rule 100 Changes to Medi-Cal Eligibility Sections

This change without regulatory effect amends several sections in Title 22 of the California Code of Regulations. Most of the amendments correct cross-references in the text. Several sections in Title 22 were re-numbered, but references to these sections were not changed. This Section 100 corrects those cross-references. There are other minor grammatical corrections and some reference and authority citations were added.

Title 22  
California Code of Regulations  
AMEND: 50195, 50197, 50256, 50258, 50258.1, 50262, 50268, 50815, 51000.53  
Filed 06/21/2012  
Agency Contact: Jasmin Delacruz (916) 440-7688

File# 2012-0619-04  
DEPARTMENT OF SOCIAL SERVICES  
CalWORKs Earned Income Disregards for Determining Eligibility

This emergency action amends the Earned Income Disregard for the California Work Opportunity and Responsibility to Kids (CalWORKS) program in accordance with SB 72 (Chapter 8, Statutes of 2011).

Title MPP  
California Code of Regulations  
AMEND: 40-105.4(g)(1), 44-111.23, 44-113.2, 44-133.54(QR), 44-315.39(QR), 89-201.513  
Filed 06/25/2012  
Effective 07/01/2012  
Agency Contact: Zaid Dominguez (916) 651-8267

File# 2012-0619-02  
DEPARTMENT OF SOCIAL SERVICES  
AB98 Subsidized Employment as amended by SB72 and AB106 (CalWORKs)

This emergency action amends the requirements for Welfare to Work subsidized employment programs in

accordance with SB 72 (Chapter 8, Statutes of 2011).

Title MPP  
California Code of Regulations  
AMEND: 41-440, 42-716, 42-717, 44-207  
Filed 06/25/2012  
Effective 07/01/2012  
Agency Contact: Zaid Dominguez (916) 651-8267

File# 2012-0619-03  
DEPARTMENT OF SOCIAL SERVICES  
CalWORKs 48-Month Time Limit, Good-Cause Exemption & Short-Term Change

This emergency action extends exemptions and policies for good-cause finding for the California Work Opportunity and Responsibility to Kids (CalWORKS) program for one additional year.

Title MPP  
California Code of Regulations  
AMEND: 40-107, 42-301, 42-302, 42-431, 42-712, 42-713, 42-716, 42-717, 42-721, 44-133, 44-307, 44-316, 82-833  
Filed 06/25/2012  
Effective 07/01/2012  
Agency Contact: Zaid Dominguez (916) 651-8267

File# 2012-0606-03  
OFFICE OF SPILL PREVENTION AND RESPONSE  
Certificates of Financial Responsibility

The Office of Spill Prevention and Response submitted this nonsubstantive action, pursuant to title 1, California Code of Regulations, section 100 to amend section 791.7(c) of title 14 of the California Code of Regulations in order to bring into parity recent increases to the application fees for certificates of financial responsibility. These fees were increased in OAL File Nos. 2011-1115-02E and 2012-0320-03C for section 870.17(b) of title 14 of the California Code of Regulations. The same application fee provisions for certificates of financial responsibility that are in section 870.17(b) are in section 791.7(c); however, OSPR overlooked increasing the application fees in section 791.7(c) in the emergency action so that they were consistent with the increased fees in section 870.17(b). The amendment will make the fees in both sections consistent with each other.

Title 14  
California Code of Regulations  
AMEND: 791.7  
Filed 06/25/2012  
Agency Contact:  
Joy D. Lavin-Jones (916) 327-0910

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN February 1, 2012 TO  
June 27, 2012**

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

**Title 2**

06/19/12 AMEND: 56800  
06/04/12 ADOPT: 18313.6  
05/29/12 AMEND: 20811(c)  
05/15/12 AMEND: 1859.2  
05/10/12 AMEND: 1859.2, 1859.82  
05/08/12 ADOPT: 559.1  
04/30/12 ADOPT: 565.5 AMEND: 565.1, 565.2, 565.3  
04/26/12 AMEND: 554.4  
04/23/12 AMEND: 18705.5  
04/23/12 AMEND: 554.3  
04/19/12 ADOPT: 18412 AMEND: 18215, 18413  
04/10/12 ADOPT: 18215.3  
04/09/12 ADOPT: 59710  
03/26/12 AMEND: 1859.2, 1859.71.4, 1859.78.1, 1859.79.2, 1859.82, 1859.83, 1859.106, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.163.5, 1859.193  
03/13/12 AMEND: 1859.2, 1859.82  
03/06/12 ADOPT: 589.11  
03/06/12 AMEND: 1189.10  
03/02/12 AMEND: 560  
02/16/12 AMEND: 18401.1  
02/13/12 AMEND: 18943

**Title 3**

06/19/12 ADOPT: 6970, 6972 AMEND: 6000  
05/17/12 AMEND: 4603(i)  
05/01/12 AMEND: 3423(b)  
04/16/12 AMEND: 3591.19  
04/16/12 AMEND: 3439  
04/12/12 AMEND: 3591.21(b)  
04/12/12 ADOPT: 3435(c)  
04/12/12 AMEND: 3434(b)&(c)  
04/03/12 ADOPT: 3639  
04/03/12 ADOPT: 3439  
04/02/12 AMEND: 480.9, 498, 499, 499.5, 500, 501, 576.1, 623, 755.2, 756.2, 760.2, 790, 790.2, 791, 791.1, 796.2, 797, 799, 820.1, 821.2, 900, 900.1, 900.2, 901.3, 901.8,

901.9, 901.11, 902, 902.15, 907.3, 909.3, 910.4, 910.7, 913, 913.1, 1180, 1180.11, 1200, 1204, 1205, 1210, 1235, 1242, 1246, 1246.14, 1247, 1256, 1266, 1268, 1269, 1271, 1300.1, 1310.1  
03/20/12 AMEND: 1430.5, 1430.6, 1430.35, 1430.36, 1430.37, 1430.38  
03/09/12 AMEND: 3436(b)  
03/08/12 AMEND: 3437(b)  
03/07/12 ADOPT: 1180, 1180.20, 1180.22, 1180.23, 1180.24, 1180.25, 1180.27, 1180.28, 1180.29, 1180.30, 1180.31, 1180.32, 1180.33, 1180.34, 1180.35, 1180.36, 1180.37, 1180.38, 1180.39  
AMEND: 1180.1, 1180.2, 1180.3, 1180.3.1, 1180.3.2, 1180.13, 1180.14, 1180.15, 1180.16, 1180.17, 1180.18, 1180.19, 1180.31, 1180.32, 1180.33, 1180.34, 1180.35, 1180.36, 1180.37, 1180.38, 1180.39, 1180.40, 1180.41  
REPEAL: 1180, 1180.21, 1180.22, 1180.23, 1180.24, 1180.25, 1180.26, 1180.27, 1180.28, 1180.29, 1180.30  
02/28/12 ADOPT: 2320.1, 2320.2, 2322, 2322.1, 2322.2, 2322.3, 2323 AMEND: 2300, 2300.1, 2302, 2303, 2320, 2321  
02/23/12 AMEND: 3700(c)  
02/13/12 AMEND: 3591.2(a)  
02/06/12 AMEND: 3435(b)  
02/02/12 AMEND: 3423(b)

**Title 4**

06/25/12 AMEND: 8070, 8071, 8072, 8078, 8078.2  
06/25/12 AMEND: 1663  
06/06/12 AMEND: 1843.3  
06/01/12 ADOPT: 5205 AMEND: 5000, 5054, 5144, 5170, 5190, 5200, 5230, 5350, 5370 REPEAL: 5133  
05/15/12 REPEAL: 61.3  
05/04/12 ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060  
04/30/12 ADOPT: 511 AMEND: 399  
04/26/12 AMEND: 2066  
04/19/12 ADOPT: 10192, 10193, 10194, 10195, 10196, 10197, 10198, 10199  
04/17/12 AMEND: 53  
04/12/12 AMEND: 10317, 10325  
04/11/12 AMEND: 10302, 10310, 10315, 10317, 10322, 10325, 10327, 10328  
04/04/12 AMEND: 5000, 5170, 5200, 5230, 5370, 5500, 5540  
03/29/12 AMEND: 12008, 12335, 12342, 12345, 12357, 12359

**CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 27-Z**

03/21/12 AMEND: 12200, 12200.9, 12200.10A,  
12200.11, 12200.13, 12220, 12220.13,  
12342, 12464  
03/08/12 AMEND: 10032, 10033, 10034, 10035  
03/08/12 AMEND: 60, 60.5  
03/06/12 ADOPT: 4075  
03/05/12 AMEND: 10152, 10153, 10154, 10155,  
10157, 10159, 10160, 10161, 10162  
REPEAL: 10156, 10158, 10164  
03/02/12 AMEND: 8070  
02/29/12 AMEND: 8070, 8072, 8073, 8074  
02/22/12 AMEND: 10176, 10177, 10178, 10182,  
10188  
02/16/12 AMEND: 12572  
02/14/12 AMEND: 1844  
02/14/12 AMEND: 1843.3  
02/08/12 AMEND: 66  
02/03/12 AMEND: 5000, 5052

**Title 5**

06/12/12 ADOPT: 18004 AMEND: 18000, 18001,  
18002, 18003  
05/29/12 AMEND: 42600  
04/25/12 AMEND: 80028, 80301, 80442  
04/20/12 AMEND: 18013, 18054, 18111  
REPEAL: 18006, 18200, 18201, 18202,  
18203, 18205, 18206, 18207  
04/11/12 AMEND: 19816, 19816.1, 19845.2  
04/02/12 ADOPT: 27000, 27001, 27002, 27003,  
27004, 27005, 27006, 27007, 27008,  
27009  
04/02/12 ADOPT: 1039.2, 1039.3  
03/26/12 AMEND: 1216.1  
03/26/12 ADOPT: 620, 621, 622, 623, 624, 625,  
626, 627  
03/12/12 AMEND: 41000  
03/06/12 AMEND: 18600  
03/01/12 ADOPT: 30001.5  
02/27/12 AMEND: 42397.2, 42397.6  
02/09/12 ADOPT: 19824.1, 19841, 19851.1,  
19854.1 AMEND: 19816, 19816.1,  
19824, 19850, 19851, 19854  
02/09/12 ADOPT: 27100, 27101, 27102, 27103

**Title 8**

05/21/12 ADOPT: 10582.5, 10770.1 AMEND:  
10770  
05/07/12 AMEND: 477  
05/07/12 AMEND: 2340.22  
05/02/12 AMEND: 20363, 20365, 20393, 20400,  
20402  
05/01/12 AMEND: 1533, 1541, 8403  
03/14/12 AMEND: 32602, 32603, 32620, 32621,  
32625, 32630, 32635, 32640, 32644,  
32647, 32648, 32649, 32650, 32661,  
32680, 32690, 61360(a)

02/23/12 AMEND: 1905  
02/16/12 AMEND: 5155  
02/08/12 AMEND: 1675, 3276, 3278  
02/08/12 ADOPT: 374.2 AMEND: 350.1, 371,  
371.1, 376  
02/01/12 AMEND 1504, 1591, 1597

**Title 9**

03/22/12 AMEND: 9795, 9800, 9801.5, 9801.6,  
9804, 9812, 9816, 9820, 9822, 9829,  
9836, 9838, 9846, 9848, 9849, 9851,  
9852, 9854, 9858, 9862, 9866, 9867,  
9868, 9874, 9876, 9876.5, 9878, 9879,  
9884, 9886

**Title 10**

05/31/12 AMEND: 2318.6, 2353.1, 2354  
05/09/12 AMEND: 2698.208  
04/23/12 AMEND: 2355.1, 2355.2  
04/10/12 AMEND: 260.204.9  
04/09/12 ADOPT: 6400  
03/15/12 AMEND: 2690  
02/16/12 AMEND: 2498.6  
02/13/12 AMEND: 2202  
02/08/12 AMEND: 2222.12  
02/03/12 AMEND: 2699.6700, 2699.6709,  
2699.6721, 2699.6725

**Title 11**

06/26/12 AMEND: 1005, 1007, 1008  
06/21/12 AMEND: 1005, 1007  
05/09/12 ADOPT: 1019 REPEAL: 9020  
05/07/12 ADOPT: 999.24, 999.25, 999.26, 999.27,  
999.28, 999.29 AMEND: 999.10,  
999.11, 999.14, 999.16, 999.17, 999.19,  
999.20, 999.21, 999.22  
04/03/12 AMEND: 1001, 1005, 1007, 1008, 1052,  
1055  
03/14/12 AMEND: 1005, 1007, 1008

**Title 12**

06/04/12 AMEND: 506

**Title 13**

04/19/12 ADOPT: 345.31, 345.32, 345.42  
AMEND: 345.02, 345.04, 345.05,  
345.06, 345.07, 345.11, 345.13, 345.15,  
345.16, 345.18, 345.20, 345.22, 345.23,  
345.24, 345.27, 345.28, 345.29, 345.30,  
345.34, 345.36(renumbered to 345.33),  
345.38 (renumbered to 345.35), 345.39  
(renumbered to 345.36), 345.40, 345.41  
REPEAL: 345.17, 345.21, 345.25,  
345.26  
04/10/12 ADOPT: 553.30 AMEND: 553, 553.10,  
553.20, 553.50, 553.70, 553.72  
02/29/12 AMEND: 553  
02/13/12 REPEAL: 158.00

**Title 14**

06/25/12 AMEND: 791.7  
 06/06/12 ADOPT: 18950, 18951, 18952, 18953, 18954, 18955, 18955.1, 18955.2, 18955.3, 18956, 18957, 18958  
 06/01/12 REPEAL: 660  
 05/30/12 AMEND: 11960  
 05/29/12 AMEND: 360, 361, 362, 363, 364, 365, 708.12  
 05/21/12 AMEND: 703  
 05/21/12 AMEND: 7.50  
 05/21/12 AMEND: 705  
 05/17/12 AMEND: 7.50  
 05/07/12 ADOPT: 18835, 18836, 18837, 18838, 18839  
 05/01/12 AMEND: 27.80  
 05/01/12 ADOPT: 4870, 4871, 4872, 4873, 4874, 4875, 4876, 4877  
 05/01/12 AMEND: 791.7, 870.17  
 04/30/12 AMEND: 632  
 04/27/12 AMEND: 228, 228.5  
 04/05/12 AMEND: 28.29, 52.10, 150.16  
 04/03/12 ADOPT: 791.6 AMEND: 791.7, 795, 796  
 03/28/12 AMEND: 11900, 11945  
 03/26/12 AMEND: 11960  
 03/22/12 AMEND: 27.80  
 02/24/12 AMEND: 29.15  
 02/13/12 AMEND: 29.17, 127  
 02/08/12 AMEND: 1257  
 01/25/12 AMEND: 18419

**Title 15**

06/26/12 ADOPT: 1712.1, 1714.1, 1730.1, 1740.1, 1748.5 AMEND: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.1, 1747.5, 1748, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788 REPEAL: 1757  
 06/26/12 ADOPT: 3079, 3079.1 AMEND: 3000, 3075.2, 3075.3  
 06/26/12 AMEND: 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, 3521.2  
 06/06/12 AMEND: 3000, 3006, 3170.1, 3172.1, 3173.2, 3315, 3323  
 05/10/12 ADOPT: 3375.6 AMEND: 3000, 3375  
 04/11/12 AMEND: 3187, 3188  
 04/09/12 AMEND: 3172.2  
 04/05/12 AMEND: 3341.5, 3375.2, 3377.1  
 04/02/12 ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000  
 03/28/12 ADOPT: 3352.3 AMEND: 3350.1, 3352, 3352.1, 3352.2, 3354, 3354.2, 3355.1, 3358

03/19/12 ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323  
 03/12/12 ADOPT: 3999.11  
 03/08/12 ADOPT: 8006  
 03/08/12 AMEND: 3315, 3323  
 02/22/12 AMEND: 173  
 02/22/12 ADOPT: 4845, 4849, 4853, 4854, 4939.5, 4961.1, 4977.5, 4977.6, 4977.7, 4983.5 AMEND: 4846, 4847, 4848, 4848.5, 4850, 4852, 4900, 4925, 4926, 4927, 4928, 4929, 4935, 4936, 4937, 4938, 4939, 4940, 4977, 4978, 4979, 4980, 4981, 4982, 4983

**Title 16**

06/18/12 ADOPT: 1727.2 AMEND: 1728  
 06/18/12 AMEND: 443  
 06/14/12 ADOPT: 302.5  
 05/25/12 ADOPT: 1399.364, 1399.375, 1399.377, 1399.381, 1399.384 AMEND: 1399.301, 1399.302, 1399.303, 1399.320, 1399.330, 1399.352.7, 1399.353, 1399.360, 1399.370, 1399.374, 1399.376 (renumbered to 1399.382), 1399.380, 1399.382 (renumbered to 1399.383), 1399.383 (renumbered to 1399.385), 1399.384 (renumbered to 1399.378), 1399.385 (renumbered to 1399.379), 1399.395 REPEAL: 1399.340, 1399.381, 1399.387, 1399.388, 1399.389, 1399.390, 1399.391  
 05/17/12 ADOPT: 4544, 4600, 4602, 4604, 4606, 4608, 4610, 4620, 4622 AMEND: 4422, 4440, 4446, 4470  
 05/14/12 AMEND: 932  
 05/04/12 ADOPT: 2509, 2518.8, 2524.1, 2568, 2576.8, 2579.11 AMEND: 2503, 2524.1 (renumber to 2524.5), 2563, 2579.11 (renumber to 2579.20)  
 04/27/12 AMEND: 407, 428  
 04/26/12 AMEND: 3605  
 04/23/12 AMEND: 3005  
 04/16/12 ADOPT: 2295, 2295.1, 2295.2, 2295.3 AMEND: 2252, 2275, 2284  
 03/30/12 AMEND: 3340.43, 3394.3, 3394.4, 3394.5, 3394.6, 3394.7  
 03/29/12 AMEND: 109, 116, 117, 121  
 03/19/12 AMEND: 4155  
 03/08/12 AMEND: 318  
 03/07/12 AMEND: 2615, 2620  
 03/07/12 AMEND: 1889.2 REPEAL: 1832.5  
 03/07/12 AMEND: 2615, 2620  
 03/07/12 AMEND: 1889.2 REPEAL: 1832.5

**CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 27-Z**

02/27/12 AMEND: 2, 8.2, 9.1, 26, 49, 58, 59, 62, 65, 75.4, 87, 87.5, 88, 88.1, 88.2, 89, 90, 94 REPEAL: 5.1, 7, 7.2  
 02/16/12 AMEND: 1397.60, 1397.61, 1397.62, 1397.63, 1397.64, 1397.65, 1397.66, 1397.67, 1397.68, 1397.69, 1397.70, 1397.71  
 02/09/12 AMEND: 28 REPEAL: 30  
 02/08/12 ADOPT: 1018.05 AMEND: 1020  
 02/01/12 ADOPT 3340.16.4 AMEND 3306, 3340.1, 3340.10, 3340.15, 3340.16.5, 3340.17, 3340.22, 3340.22.1, 3340.23, 3340.28, 3340.29, 3340.30, 3340.31, 3340.50, 3351.1 3340.16.4 3306, 3340.1, 3340.10, 3340.15, 3340.16.5, 3340.17, 3340.22, 3340.22.1, 3340.23, 3340.28, 3340.29, 3340.30, 3340.31, 3340.50, 3351.1

**Title 17**

06/15/12 AMEND: 6508  
 04/18/12 AMEND: 100607, 100608  
 03/28/12 AMEND: 100080  
 03/15/12 ADOPT: 58883  
 03/15/12 AMEND: 6020, 6035, 6051, 6065, 6070, 6075  
 03/12/12 AMEND: 95307  
 02/21/12 AMEND: 95486  
 02/15/12 AMEND: 95802, 95833, 95841.1, 95852, 95852.1.1, 95852.2, 95870, 95891, 95892, 95914, 95920, 95971, 95974, 95975, 95977.1, 95979, 95980, 95981, 95981.1, 95985, 95986, 95987, 95990, 95993, 95994, 96021 REPEAL: 95893, 95943

**Title 18**

05/01/12 AMEND: 1685.5  
 03/26/12 ADOPT: 25137-8.2 AMEND: 25137-8 (re-numbered to 25137-8.1)  
 02/27/12 ADOPT: 25136-2  
 02/07/12 AMEND: 1807, 1828

**Title 19**

02/16/12 ADOPT: 560.4 AMEND: 557.19, renumber 560.4, 560.5, and 560.6 as 560.5, 560.6, and 560.7, respectively

**Title 22**

06/21/12 AMEND: 50195, 50197, 50256, 50258, 50258.1, 50262, 50268, 50815, 51000.53  
 06/12/12 AMEND: 66261.32  
 05/24/12 AMEND: 90417  
 05/22/12 ADOPT: 60098, 64400.05, 64400.29, 64400.36, 64400.41, 64400.66, 64400.90, 64402.30, 64400.46 AMEND: 60001, 60003, 63790, 63835, 64001, 64211, 64212, 64213, 64252, 64254, 64256, 64257, 64258, 64259, 64400.45,

64415, 64463.1, 64463.4, 64470, 64481, 64530, 64531, 64533, 64534, 64534.2, 64534.4, 64534.6, 64534.8, 64535, 64535.2, 64535.4, 64536.6, 64537, 64537.2 REPEAL: 60430, 64002, 64439, 64468.5

05/17/12 AMEND: 51240, 51305, 51476  
 05/04/12 AMEND: 123000  
 04/11/12 AMEND: 97174  
 03/15/12 ADOPT: 123000 and Appendices REPEAL: 123000 and Appendices  
 02/21/12 AMEND: 51003  
 02/21/12 AMEND: 66261.21(a)(3), 66261.21(a)(4)  
 02/08/12 AMEND: 66261.33, 66268.40  
 02/06/12 AMEND: 80001, 80075, 83000, 83001, 84001, 84061, 86001, 88001

**Title 23**

04/23/12 ADOPT: 3979.4  
 04/10/12 AMEND: 2631  
 04/09/12 ADOPT: 3969.1  
 04/05/12 AMEND: 645  
 03/21/12 ADOPT: 3969  
 03/21/12 ADOPT: 3939.41  
 03/21/12 ADOPT: 3939.44  
 03/15/12 ADOPT: 3939.43  
 03/12/12 AMEND: 2922  
 03/09/12 ADOPT: 3919.11  
 02/29/12 ADOPT: 3939.42  
 02/27/12 ADOPT: 3919.12  
 02/15/12 ADOPT: 20, 21, 22, 23, 24, 25, 26, 27 AMEND: 4, 5, 5.1, 9, 10, 11, 12, 13, 14, 16, 17, 23 (re-numbered to 28), 103, 109, 110, Appendix A REPEAL: 20, 21, 22

**Title 25**

06/07/12 ADOPT: 4326, 4328 AMEND: 4004, 4200, 4204, 4208  
 03/13/12 ADOPT: 6932 REPEAL: 6932

**Title 27**

06/18/12 AMEND: 25705  
 03/26/12 AMEND: 25705  
 03/15/12 AMEND: 25705

**Title MPP**

06/25/12 AMEND: 40-105.4(g)(1), 44-111.23, 44-113.2, 44-133.54(QR), 44-315.39(QR), 89-201.513  
 06/25/12 AMEND: 41-440, 42-716, 42-717, 44-207  
 06/25/12 AMEND: 40-107, 42-301, 42-302, 42-431, 42-712, 42-713, 42-716, 42-717, 42-721, 44-133, 44-307, 44-316, 82-833  
 04/11/12 AMEND: 47-230, 47-240, 47-401  
 03/15/12 AMEND: 25705