



California Regulatory Notice Register

REGISTER 2012, NO. 29-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JULY 20, 2012

PROPOSED ACTION ON REGULATIONS

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION
Inmate Classification Score System — Notice File No. Z2012-0709-01 947

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION
Postrelease Community Supervision — Notice File No. Z2012-0702-01 949

TITLE 16. DENTAL HYGIENE COMMITTEE OF CALIFORNIA
Fingerprinting Requirements — Notice File No. Z2012-0710-01 952

TITLE 17. AIR RESOURCES BOARD
Area Designations for State Ambient Air Quality Standards 2012 — Notice File No. Z2012-0710-02 954

TITLE 17. DEPARTMENT OF PUBLIC HEALTH
Newborn Screening Panel Fee Increase — Notice File No. Z2012-0625-01 958

TITLE 24. BUILDING STANDARDS COMMISSION
Marine Oil Terminals Engineering and Maintenance Standards — Notice File No. Z2012-0710-03 963

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME
CESA Consistency Determination Request, Kerns Pond Safe Harbor Agreement (2089-2012-001-01), Shasta County 968

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
Chemicals Known to the State to Cause Cancer or Reproductive Toxicity 968

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
Chemicals Listed Effective July 24, 2012 as Known to Cause Cancer 986

(Continued on next page)

Time-Dated Material

PRIORITY REVIEW OF REGULATIONS

(Pursuant to Gov. Code sec. 11349.7)

STATE ALLOCATION BOARD

Office of Administrative Law's Determination on Request for Priority Review and Order to Show

Cause Concerning State Allocation Board's Form 50-04 Application for Funding, Item 22,

aka "60% Commensurate Regulation," Incorporated by Reference in Title 2, section 1859.2 987

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State 997

Sections Filed, February 15, 2012 to July 11, 2012 999

THE 2012 RULEMAKING CALENDAR

(Incorporated by Reference)

Special Note 1003

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.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002-931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. "Periodicals Postage Paid in Saint Paul, MN." **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Barclays, a subsidiary of West, a Thomson Reuters Business, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or the Department), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend Sections 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2 and 3521.2, in the California Code of Regulations (CCR), Title 15, concerning the Department's Inmate Classification Score System.

PUBLIC HEARING

Date and Time: **September 17, 2012—
10:00 a.m. to 11:00 a.m.**

Place: Department of Corrections and Rehabilitation
Kern Room
1515 S Street — North Building
Sacramento, CA 95811

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close **September 17, 2012, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

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

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

**Josh Jugum
Regulation and Policy Management Branch
Telephone (916) 445-2228**

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

**Jill Brown
Classification Services Unit
Telephone (916) 323-3659**

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

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

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide

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

EFFECT ON SMALL BUSINESSES

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

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or affect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulations will have no effect on the health and welfare of California residents, worker safety, or the state's environment, because they relate strictly to the internal management of CDCR institutions and the classification and housing of inmates.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law, than the proposed regulatory action. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based

(i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

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

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

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

This action will:

- Revise the Department’s Inmate Classification Score System (ICSS), consistent with the findings and recommendations of the *Expert Panel Study of the Inmate Classification Score System*. The ICSS is used to place inmates into the most appropriate housing facilities and work assignments based on objective factors that measure how much of a risk the inmate presents to the safety and security of the institution, staff, other inmates and the public.
- Adopt new definitions for the terms “Non–secure Facility” and “Security Concern,” amend several existing definitions for improved clarity, and repeal definitions of terms which are no longer applicable.
- Amend the “cut–off points” of the classification placement score system which determine the security level to which an inmate will be assigned. The amendments will allow inmates with higher scores to be assigned to lower security levels compared to the previous cut–off points.
- Establish a new “Security Concern” Administrative Determinant to indicate that an inmate presents a heightened security risk. Administrative determinants are used, when case factors indicate, to override an inmate’s classification placement score.
- Amend the three Department forms (839, 840, 841), as well as the instructions for their completion, used in the inmate classification process to compute the inmate’s classification placement score, and incorporate these forms by reference into the regulation text.
- Amend and simplify regulatory provisions related to Close Custody by merging previously separate subsections.
- Establish a new provision wherein an inmate who otherwise meets the criteria for assignment of Close Custody status may have that status waived if the inmate is determined to have a permanent and severe physical limitation that diminishes the need for direct and constant supervision. Safeguards are provided in case the inmate recovers or subsequently demonstrates a need for direct and constant supervision.
- Amend existing provisions establishing minimum periods in which inmates serving the most serious and lengthy sentences must be assigned Close Custody status.
- Establish provisions to evaluate an inmate’s custody designation in cases where a court has either lengthened or reduced an inmate’s sentence, or where an error has been made in the initial computation of the inmate’s time to serve.

- Amend existing provisions regarding Close Custody status for inmates who have a history of escape attempts or who have been found guilty of specified offenses while in custody.
- Establish provisions for the implementation of the revised Close Custody regulations.

The Department anticipates that these proposed regulations will improve the system used to classify inmates, and result in more appropriate placement of inmates within the California prison system. The proposed changes will reduce the “over–classification” of inmates and increase inmate access to work assignments, substance abuse treatment, and other rehabilitative opportunities.

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing state laws and regulations.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Sections 5058 and 5058.3, in order to implement, interpret and make specific PC Section 3450 et seq., proposes to amend Sections 3000, 3075.2, 3075.3, and adopt Sections 3079 and 3079.1 of the California Code of Regulations (CCR), Title 15, Division 3, concerning the Postrelease Community Supervision program.

PUBLIC HEARING

Date and Time: September 10, 2012 —
10:00 a.m. to 11:00 a.m.

Place: Department of Corrections and
Rehabilitation
Kern Room
1515 S Street — North Building
Sacramento, CA 95811

Purpose: To receive comments about
this action.

PUBLIC COMMENT PERIOD

The public comment period will close September 10, 2012 at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e–mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box

942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

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

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

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

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

**M. Gonzalez
Classification Services Unit
(916) 322-1164**

LOCAL MANDATES

The 2011 Realignment Legislation Addressing Public Safety (Chapter 15, Statutes 2011) does impose mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4 of the Government Code. Funding has been provided to local agencies commensurate with the new responsibilities under realignment. For further explanation, see Economic and Fiscal Impact Statement, Std. 399.

FISCAL IMPACT STATEMENT

- **Cost to any local agency or school district that is required to be reimbursed:** \$367 million in 2011-12, and is estimated to be \$856 million in 2012-13, \$1 billion in 2013-14, and \$950 million in 2014-15.
- **Cost or savings to any state agency:** The California Department of Corrections and Rehabilitation budget was reduced by \$450 million in 2011-12, \$1 billion in 2013-14, and \$1.5 billion in 2014-15 and ongoing.
- **Other nondiscretionary cost or savings imposed on local agencies:** *none*
- **Cost or savings in federal funding to the state:** *none*

EFFECT ON HOUSING COSTS

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulations will have no impact on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California, or the health and welfare of California residents, worker safety, or the state's environment.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESSES

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

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the proposed regulatory action. Interested persons are accordingly invited to pres-

ent statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

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

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

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

The health and welfare of California residents will be benefited by the proposed regulations by a reduction in prison overcrowding. The proposed regulations will also reduce recidivism among criminal offenders by re-investing criminal justice resources to support community corrections programs and evidence-based practices that will achieve public safety. In addition to the reduction in prison overcrowding and reducing recidivism, the proposed regulation will benefit the State by a reduction in the State budget.

The proposed regulations will not affect worker safety or the State’s environment.

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing state laws and regulations.

This action provides the following:

- Adopts into the California Code of Regulations, Title 15, Division 3, new sections 3079 and 3079.1 governing Postrelease Community Supervision (PRCS).
- Brings the Department into compliance with the provisions of PC Section 3450, which provides for supervision of offenders in the community by county agencies after their release from incarceration in CDCR prisons.
- Adopts into the California Code of Regulations, Title 15, Division 3, the definition of “Postrelease Community Supervision.”
- Differentiates release procedures for inmates being released to state-level parole from those that are being released to PRCS and supervised by counties.
- Revises CDCR Form 611 (Rev. 05/12), Release Program Study, for use with the PRCS program. This form is incorporated by reference into the regulations. This action establishes for use on a statewide basis, new CDCR Form 1515-CS (09/11), Notice and Conditions of Postrelease Community Supervision, which is incorporated by reference into the regulations. A copy of CDCR Form 611 and CDCR Form 1515-CS have been made available for public review. In addition, CDC Form 1515, (Rev. 05/01), Notice and Conditions of Parole and CDCR Form 1570 (Rev. 1/06), Guidelines for Parole, and are included for

reference and made available to the public. These forms shall be given to inmates released to state-level parole, but are not given to inmates released to Postrelease Community Supervision. The CDC Form 115 (07/88), Rules Violation Report, is referenced in these regulations, as this form will be utilized should the inmate refuse to sign the CDCR Form 1515-CS.

- Provides the reporting instructions and notice and conditions of release for inmates released to PRCS.
- Adopts new Article 6.9, which outlines eligibility for PRCS, and clarifies that once released to PRCS offenders are no longer under the jurisdiction of CDCR.
- Defines the exclusionary criteria for PRCS.

EVALUATION OF
INCONSISTENCY/INCOMPATIBILITY WITH
EXISTING REGULATIONS

The Department has determined that these proposed regulations are consistent and compatible with existing state laws and regulations.

**TITLE 16. DENTAL HYGIENE
COMMITTEE OF CALIFORNIA**

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

Department of Consumer Affairs
1st Floor Hearing Room
2005 Evergreen Street
Sacramento, California on

**September 12, 2012
10:00 a.m.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Dental Hygiene Committee of California at its office not later than 5:00 p.m. on September 12, 2012 or must be received by the Committee at the hearing. The Committee, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals

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

Authority and Reference: Pursuant to the authority vested by Section 1906 of the Business and Professions Code, and to implement, interpret or make specific Sections 1916 and 1950 of the Business and Professions Code and Penal Code Sections 11105, the Committee is considering changes to Division 11 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Business and Professions Code Section 1906 authorizes the Dental Hygiene Committee of California to adopt, amend and repeal such rules and regulations as may be reasonably necessary to enable the Committee to effect the provisions of Business and Professions Code 1900-1966.6. This proposal would waive the existing requirement for submission of electronic fingerprints for inactive dental hygienist licensees until re-activation of the license. The Committee is proposing the following amendments:

- Amend Section 1132(a)(3) of Division 11, Title 16 of the California Code of Regulations

Existing regulations require all licensees, with the exception of those actively serving in the military, to furnish a full set of electronic fingerprints as a condition of license renewal if no record of such fingerprinting exists. Fingerprints are provided to and processed by the California Department of Justice for the purpose of conducting a criminal history record check and a state and federal level criminal offender record information search on licensees for whom no such record exists. All Registered Dental Hygienist in Extended Functions (RDHEF) applicants since 1994 and all Registered Dental Hygienist (RDH) applicants since 1999 have been subject to this requirement as a condition of issuance of a license. In 2010 the requirement was extended to include licensees who were issued licenses prior to those dates so that the Committee would receive criminal history and subsequent arrest reports on all its current licensees.

The proposed amendments would add a provision to delay this fingerprinting requirement for licensees who are on an inactive status until such time as the licensee requests activation of the license to practice dental hygiene in California. Failure to complete the required fingerprinting would prevent activation of the license and prohibit the licensee from practicing dental hygiene until the requirement is met. Inactive licensees may have health issues, may reside in other states or countries, be unemployed or have retired from practice and wish to retain their dental hygiene license. The proposed amendments would allow inactive licensees to retain their California dental hygiene license while prohibiting any practice of hygiene in California.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The Dental Hygiene Committee of California's policy is to promulgate regulations for the protection of California consumers. When there is no impact on consumers, the Committee endeavors to pursue regulations that are not burdensome to licensees. This proposal continues the consumer protection benefits of existing regulations that prevent licensees who have been convicted of crimes from practice on California consumers. This proposal will benefit inactive licensees by deferring their electronic fingerprinting requirement until the inactive licensee chooses to re-enter the California workforce by re-activating their inactive license.

Electronic fingerprinting for the purpose of conducting a criminal history record check and a state and federal level criminal offender record information search can only be obtained at specific locations within California. Many inactive licensees are retired and living in other states or countries, and it would be burdensome for them to travel to California to comply with this requirement of the law. Similarly, some licensees are inactive due to health conditions or disabilities. All licensees have completed at least a four-year educational program, a written examination, a law and ethics examination and a clinical examination prior to obtaining their license. Most do not wish to relinquish the license, even if no longer able to work, so simply place their license on inactive status as do doctors, dentists and other health professionals. Any licensee who holds an inactive license is prohibited from practice on patients, maintaining the intent of the regulations toward protection of consumers from practitioners who have been convicted of criminal activity.

Some licensees have placed their license on an inactive status because they are currently unemployed and unable to pay for required continuing education classes,

which can cost hundreds or even thousands of dollars. These licensees should not be forced to spend additional funds to meet requirements until they are again employed and intend to actively practice on patients.

This proposal benefits California consumers by maintaining public protection while removing a burdensome requirement on inactive licensees who do not practice in California.

C. Consistency and Compatibility with Existing State Regulations

This Committee has evaluated this regulatory proposal and it is not inconsistent nor incompatible with existing State regulations.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

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

Cost Impact on Representative Private Person or Business: The Committee is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Committee has determined that the proposed regulations would not have a significant economic impact on small businesses unless those small businesses were fingerprinting businesses authorized by the California Department of Justice to collect and submit electronic fingerprints for criminal history record check and state and federal level criminal offender record information search purposes. There are approximately 750 vendors statewide, including small businesses, which provide fingerprinting services. Those small businesses would be minimally impacted by loss of rev-

enue of approximately \$165.20 per vendor in the short term. These revenue losses would be regained once a licensee re-activates his or her license.

**RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS**

Impact on Jobs/Businesses:

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

Benefits of Regulation:

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

This regulation will benefit the state's environment and the health of California residents by not requiring inactive licensees to travel to California to comply with the fingerprinting requirements, saving on fuel usage and the environmental pollution caused by unnecessary travel.

CONSIDERATION OF ALTERNATIVES

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

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

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may

be obtained at the hearing or prior to the hearing upon request from the Dental Hygiene Committee of California at 2005 Evergreen Street, Suite 1050, Sacramento, California 95815.

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

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

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

CONTACT PERSON

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

Name: Lori Hubble, Executive Officer
Address: 2005 Evergreen Street,
Suite 1050
Sacramento, CA 95815
Telephone No.: (916) 263-1978
Fax No.: (916) 263-2688
E-mail Address: Lori.Hubble@dca.ca.gov

The backup contact person is:

Name: Traci Napper, Legislation
and Regulations Analyst
Address: 2005 Evergreen Street,
Suite 1050
Sacramento, CA 95815
Telephone No.: (916) 263-2572
Fax No.: (916) 263-2688
E-mail Address: Traci.Napper@dca.ca.gov

Website Access: Materials regarding this proposal can be found at the Committee's website: www.dhcc.ca.gov.

TITLE 17. AIR RESOURCES BOARD

**NOTICE OF PUBLIC COMMENT PERIOD ON
PROPOSED AMENDMENTS TO THE AREA
DESIGNATIONS FOR STATE AMBIENT AIR
QUALITY STANDARDS**

The Executive Officer of the Air Resources Board (ARB) is proposing amendments to the regulations designating areas of California as attainment, nonattain-

ment, nonattainment–transitional, or unclassified for pollutants with State ambient air quality standards set forth in section 70200 of title 17, California Code of Regulations.

Written comments on the proposed regulatory amendments must be received by September 4, 2012 in order to be considered by the Executive Officer. No oral public hearing is currently scheduled, but you may, by August 20, 2012, request the Executive Officer to conduct a public hearing. Your request must be in writing and must comply with the requirements of Government Code section 11346.8(a). If an oral public hearing is requested by that date, it will be conducted by the Executive Officer or his or her delegate pursuant to the authority set forth in Health and Safety Code (H&SC) sections 39515 and 39516 and California Code of Regulations, title 17, section 70306. Notice of the time, date, and place of any hearing, if requested, will be provided by separate notice.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to California Code of Regulations (CCR), title 17, sections 60201 and 60210.

Background: ARB is charged with the responsibility of adopting ambient air quality standards in consideration of the public health, safety, and welfare (H&SC section 39606). To date, ARB has adopted State ambient air quality standards (State Standards) for ten pollutants, set forth in CCR, title 17, section 70200. In addition, H&SC section 39607(e) requires ARB to establish designation criteria which provide the basis for designating areas of California as attainment or nonattainment with respect to the State Standards. The designation criteria are set forth in CCR, title 17, sections 70300 through 70306, and appendices 1 through 3 thereof. Based on these designation criteria, H&SC section 39608 further requires ARB to establish and annually review area designations for State Standards.

Objectives and Benefits of the Proposed Amendments: During the annual review, ARB determines whether changes to the existing area designations are warranted based on an evaluation of recent air quality data. The annual review and update of the area designations gives the public, businesses, and government, an indication of whether the health-based standards are being met. This information allows the public to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities. In addition, businesses and government are given the opportunity to make informed decisions regarding worker health and safety.

Objectives:

This year’s review of the area designations is based on air quality data from 2008 through 2010. The proposed amendments provide for three changes for fine particulate matter (PM_{2.5}) areas, as summarized below:

- Designate the North Coast Air Basin as attainment. The Air Basin comprises four counties and one partial county: Del Norte, Humboldt, Trinity, Mendocino, and the northern portion of Sonoma. This area coincides in area with the North Coast Unified Air Quality Management District, the Mendocino County Air Quality Management District, and the Northern Sonoma County Air Pollution Control District. The North Coast Air Basin is currently designated as unclassified.
- Designate the Northeast Plateau Air Basin as attainment. The Air Basin comprises three counties: Lassen, Modoc, and Siskiyou. This area coincides in area with the Lassen County Air Pollution Control District, the Modoc County Air Pollution Control District, and the Siskiyou County Air Pollution Control District, respectively. The Northeast Plateau Air Basin is currently designated as unclassified.
- Designate Ventura County in the South Central Coast Air Basin as attainment. This area coincides in area with the Ventura County Air Pollution Control District and is currently designated as nonattainment.

In addition, changes to the ozone designations have already occurred by operation of law pursuant to HSC 40925.5. These non–discretionary changes are re-designating Glenn County, Yolo County, and the Sacramento Valley Air Basin (SVAB) portion of Solano County from nonattainment to nonattainment–transitional.

Benefits:

Environmental Justice. Some communities experience higher exposures to air pollutants and it is a priority of ARB to ensure that full protection is afforded to all Californians. Although they do not contain any requirements for action, the proposed amendments to the area designations classify the air quality in communities as to whether it meets the State’s health–based standards.

Safeguarding the quality of the physical environment. An area’s designation status provides a classification that assists local districts to more accurately assess local air quality. Although changes to areas’ designations require no direct action, indirect benefits to the quality of the physical environment may result.

Encouraging a regional approach to the State ambient air quality, whenever possible. The proposed designations by discrete areas allow each local district to assess the air quality of individual areas and address their

unique situations and needs. This approach allows each local district to identify the most cost-effective, efficient, and acceptable approach to achieve the ambient air quality standards.

Consistency with the State goal of providing a decent home and suitable living environment. The annual review and update of the area designations gives local districts an indication of whether the health-based standards are being met. This information allows local districts to make informed decisions regarding appropriate actions to meet the air quality standards.

CONSISTENCY WITH EXISTING STATE REGULATIONS

The proposed changes, as well as the process for effecting those changes, to the area designations are consistent with existing State regulations. Pursuant to CCR, title 17, section 70306 and Government Code section 11346.8(a), a public hearing will be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to ARB, a request to hold a public hearing. In proposing to designate the North Coast Air Basin, Northeast Plateau Air Basin, and Ventura County in the South Central Coast Air Basin as attainment, ARB has considered the data for record, which meet the representativeness and completeness criteria. These data demonstrate that the PM_{2.5} standard was not violated in these areas. Therefore, consistent with State regulations, ARB is proposing to designate these areas as attainment for PM_{2.5}. In addition, the redesignation of Glenn County, Yolo County, and the Sacramento Valley Air Basin (SVAB) portion of Solano County to nonattainment-transitional for ozone is a non-discretionary change that occurred by operation of law pursuant to H&SC section 40925.5.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal or local regulations that address area designations for the State (California) ambient air quality standards.

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: "Initial Statement of Reasons for Rulemaking: Proposed 2012 Amendments to Area Designations for State Ambient Air Quality Standards."

Copies of the ISOR and the full text of the proposed regulatory language, in underline (to indicate additions) and ~~strike-out~~ (to indicate deletions) 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 20, 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.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Ms. Sylvia Zulawnick, Manager, Particulate Matter Analysis Section, at (916) 324-7163 or Ms. Theresa Najita, Air Pollution Specialist, Particulate Matter Analysis Section, at (916) 322-7297.

Further, the agency representative and designated back-up contact persons, to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. ARB 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.

Internet Access: This notice, the 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/area12/area12.htm>.

DISCLOSURES REGARDING THE PROPOSED ACTION / FISCAL IMPACT

The determinations of ARB'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.

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

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

In accordance with Government Code section 11346.3, the Executive Officer has determined 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. An assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The proposed amendments to the area designation regulations do not contain any requirements for action. The area designations are simply labels that describe the healthfulness of the air quality in each area. Because these regulations by themselves contain no requirements for action, they have no direct economic impact. However, this regional approach to categorizing air quality allows each district to identify the most cost-effective and efficient approach to achieve the ambient air quality standards. In addition, the annual review and update of the area designations gives the public an indication of whether the health-based standards are being met, thereby allowing the public to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities. These

personal health and residency decisions may translate into cost savings from reduced medical expenses, hospitalizations, and time off from work, as well as improved psychological benefits. It also allows businesses and government the opportunity to make informed decisions about worker health and safety. These business and government decisions may also translate into cost savings from reduced workers' expenses such as medical expenses, hospitalizations, time off from work, and worker's compensation, as well as improved worker morale.

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 would not affect small businesses because the proposed regulatory action does not contain any requirements for action.

ALTERNATIVES

Before taking final action on the proposed regulatory action, the Executive Officer must determine that no reasonable alternative considered by ARB, or that has otherwise been identified and brought to the attention of ARB (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 the ISOR.

SUBMITTAL OF COMMENTS AND WRITTEN COMMENT PERIOD

This regulatory proceeding will be conducted through the submittal of written documents. No oral public hearing is currently scheduled.

Written comments on this regulatory proposal must be received no later than 5:00 p.m., September 4, 2012, and 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>

As stated above, no oral public hearing is scheduled at this time. However, an oral public hearing will be scheduled if any interested person or his or her duly authorized representative requests such a hearing by August 20, 2012, no later than 15 days prior to the close of the written comment period. The request for a hearing may be submitted in the same manner as written comments, but must comply with the requirements of Government Code section 11346.8(a).

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.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, and 39608. This action is proposed to implement, interpret, and make specific Health and Safety Code, sections 39608, 40718, and 40925.5.

REGULATORY AMENDMENT PROCEDURES

This regulatory proceeding 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 close of the comment period, the Executive Officer may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Executive Officer 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 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, if applicable, 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

If you need this document in an alternate format (i.e., Braille, large print, etc.) or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than ten (10) business days from the release date of this notice. TTY/TDD/Speech-to-Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alterno (por decir, sistema Braille, o en impresión grande) u otro idioma, pro favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de diez (10) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 17, California Code
of Regulations

SUBJECT: Newborn Screening Panel Fee
Increase, DPH-11-020E

Notice is hereby given that the California Department of Public Health (Department) will conduct written public proceedings during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice. Section 124977(d)(1) of the Health and Safety Code provides that for the purposes of the Administrative Procedure Act, the adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations are now in effect. This notice of proposed rulemaking commences a rulemaking to make the regulations permanent.

PUBLIC HEARING

Date and Time: September 7, 2012 —
10:00 a.m. to 12 noon
Place: 1500 Capitol Ave,
Sacramento, California 95814

Purpose: For the public to provide input regarding the proposed action

For individuals with disabilities the Department will provide assistive services such as sign–language interpretation, real–time captioning, note takers, reading or writing assistance, and conversion of written public hearing materials into Braille, large print, audiocassette, or computer disk. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

To request such services or copies of materials in an alternate format, please write to Dawn Basciano, Office of Regulations, MS 0507, P.O. Box 997377, Sacramento, CA 95899–7377, or call (916) 440–7367, or use the California Relay Service by dialing 711.

WRITTEN COMMENT PERIOD

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on September 7, 2012, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier “DPH–11–020E” in the subject line to facilitate timely identification and review of the comment; or
2. By fax transmission: (916) 440–5747; or
3. By mail to: Office of Regulations, California Department of Public Health, MS 0507, P.O. Box 997377, Sacramento, CA 95899–7377; or hand–delivered to: 1616 Capitol Avenue, Sacramento, CA 95814. It is requested but not required that written comments sent by mail or hand–delivered be submitted in triplicate.

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

AUTHORITY AND REFERENCE

Authority: Sections 124977, 124996, 125000, 131050, 131051, and 131200, Health and Safety Code.

Reference: Sections 124977, 124996, 125000 and 125001, Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Health and Safety Code (HSC) Sections 124977 and 125001 enacted by Assembly Bill (AB) 395 (Pan, Chapter 461, Statutes of 2011), requires the expansion of the Newborn Screening Program (NBS) panel to include severe combined immunodeficiency (SCID) and other T–cell lymphopenias. The Department proposes to revise Subchapter 9, Testing for Heritable Disorders, Group 3, Newborn Screening Fee Collection, Title 17, California Code of Regulation (CCR), Division 1, Chapter 4, Section 6508, to raise the Newborn Screening fee from \$101.75 to \$111.70.

The Newborn Screening Program (NBS) administered by the Department provides organized quality–assured screening of 500,000 births annually in California for several genetic disorders. The Newborn Screening panel screens for over 75 disorders that include amino acid disorders such as phenylketonuria, organic acid disorders, fatty acid oxidation disorders, galactosemia, congenital hypothyroidism, congenital adrenal hyperplasia, sickle cell anemia, cystic fibrosis, and biotinidase deficiency and other hemoglobinopathies.

Early detection of SCID by newborn screening can significantly minimize and even prevent an undue financial burden being placed on the families and/or the health care system as a result of treating patients with immunodeficiency complications. SCID, unlike the other disorders on the screening panel, is the only disorder where early medical treatment may eliminate the disease in a patient.

Sections 124977 and 124996, HSC, require that the program be “fully supported from fees collected.” This fee may be adjusted by the Department’s Director as needed to meet costs. A fee increase is required to provide revenue to ensure the expansion to SCID is fully implemented and sufficient resources are available on an ongoing basis. This funding will support expenditures associated with the ongoing workload of processing biospecimens at the CDPH Genetic Disease Laboratory, staff needed to perform the screening, testing chemicals, equipment acquisition, IT upgrades and supplies used to assay the results. Funding will also be utilized to support follow–up costs for screen positive cases, such as case management, diagnostic work–up, confirmatory processing, provider and family education, informative result mailers as well as incorporation and maintenance on an on–going basis of SCID into the Screening Information System (SIS).

EVIDENCE SUPPORTING THAT THE PROPOSED REGULATORY ACTION IS COMPATIBLE WITH EXISTING STATE REGULATIONS

The proposed regulatory action is compatible with existing state regulations that mandate that the Newborn Screening Program (NBS) administered by the Department according to HSC Code Sections 125000, 125001, and 125025 must provide organized quality-assured screening of all births in California for several genetic disorders. Disorders mandated for testing are established in HSC Sections 124977, 125000, 125001 and 125025, and in Title 17, California Code of Regulations (CCR), Section 6501. The Newborn Screening panel screens for over 75 disorders that include amino acid disorders such as phenylketonuria, organic acid disorders, fatty acid oxidation disorders, galactosemia, congenital hypothyroidism, congenital adrenal hyperplasia, sickle cell anemia, cystic fibrosis, and biotinidase deficiency and other hemoglobinopathies. Assembly Bill (AB) 395 (Pan, Chapter 461, Statutes of 2011) requires the expansion of the Newborn Screening Program (NBS) panel to include severe combined immunodeficiency (SCID) and other T-cell lymphopenias.

HSC Sections 124977 and 124996 require that the program be “fully supported from fees collected.” This fee may be adjusted by the Department’s Director as needed to meet costs. The program previously collected \$101.75 for each newborn tested. The fees collected from the institution of birth are deposited in a special fund called the Genetic Disease Testing Fund (GDTF). The GDTF is used to pay expenses of program operations including costs of supplies, forms, educational materials and contracts with private vendors for laboratory analysis, tracking and follow-up of positive test results, data processing and fee collection.

EVIDENCE SUPPORTING THE FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The requirement that the Newborn Screening fee be increased to \$111.70 will have no significant adverse economic impact on any business. It is unlikely that a \$9.95 increase in newborn screening fees that are paid by the institution of birth to the Department is sufficient to require any significant increase in premiums for health insurance charged to businesses.

Currently, there are no existing federal regulations or statutes applicable to this proposed regulation.

FORMS INCORPORATED BY REFERENCE

N/A

MANDATED BY FEDERAL LAW OR REGULATIONS

N/A

OTHER STATUTORY REQUIREMENTS

N/A

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None.
- B. Fiscal Effect on State Government:

The newborn screening panel has been a covered benefit of public and private insurance programs and required for all newborns since 1980. Medi-Cal fee-for-service (FFS Medi-Cal): Approximately 45 percent of babies born in California per year are FFS Medi-Cal eligible or approximately 238,335 out of 529,633 births. State costs are estimated to be $\$9.95 \times 238,335$ up to \$2,371,432.00 annually of which 50 percent is covered by Federal Funding resulting in a cost of \$1,185,712.00 per year resulting in (an approximate cost of \$595,000.00 for the remainder of the current fiscal year – Attachment 1).

FY 2011–2012: The potential cost of the current fiscal year is $119,167 \times \$9.95 \div 2 = \$592,585.00$ (6 months of 50% of the total fee of \$9.95 for 45% of total births).

FY 2012–2013 and ongoing years: 45% of 529,633 births ($238,335 \times \$9.95$) $\div 2$ (50% of total fee funded by state government) = \$1,185,712.00.

- C. Fiscal Effect on Federal Funding of State Programs:

The federal Medi-Cal program reimbursement for newborn screening fees is 50 percent of the total charge resulting in a Federal Funding impact of approximately \$1,185,717.00 per year. Approximately 238,335 births are expected to be eligible or Medi-Cal in California.

- D. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

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

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

DETERMINATIONS

ECONOMIC IMPACT ANALYSIS

The Department has made an initial determination that the emergency regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The Department has determined that the emergency regulations will not significantly affect the following: the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of California or the expansion of businesses currently doing business within the State of California.

The Department has made the determination that this emergency action will benefit the health and welfare of the residents of California. Early detection of SCID by newborn screening can significantly minimize and even prevent an undue financial burden being placed on the families and/or the health care system as a result of treating patients with immunodeficiency complications. SCID, unlike the other disorders on the screening panel, is the only disorder where early medical treatment may eliminate the disease in a patient.

The American Academy of Pediatrics indicates that early screening for SCID is critically important as data show that SCID infants who receive a related donor bone marrow transplant (BMT) within the first 14 weeks of life are significantly more likely to survive and have fewer problems over time than those who receive care later in infancy or who have already developed an infection. SCID and other T-cell lymphopenias occur in approximately 1 in 23,000 births in the state of California. The average lifetime cost for an undiagnosed, or late diagnosed SCID case is conservatively estimated at approximately \$2.2 million per child, anecdotal information predicts that the expected incidence of SCID and related T-cell lymphopenias in California is 18 children per year, for a cost that may exceed \$40,000,000.

The Department has made the initial determination that this emergency action would not have a significant benefit or adverse impact on California worker's safety or have any effect on the state's environment.

EFFECT ON SMALL BUSINESSES

The Department has determined there would be an effect on those small businesses that choose to participate in the Newborn Screening Program. There may be a small economic impact on some small businesses.

LOCAL MANDATE DETERMINATION

The Department has determined that the emergency regulations will not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

HOUSING COSTS DETERMINATION

The Department has determined that the emergency regulations will not impact housing costs.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The Department has made the determination that this emergency action will benefit the health and welfare of the residents of California. Early detection of SCID by newborn screening can significantly minimize and even prevent an undue financial burden being placed on the families and/or the health care system as a result of treating patients with immunodeficiency complications. SCID, unlike the other disorders on the screening panel, is the only disorder where early medical treatment may eliminate the disease in a patient.

The American Academy of Pediatrics indicates that early screening for SCID is critically important as data show that SCID infants who receive a related donor bone marrow transplant (BMT) within the first 14 weeks of life are significantly more likely to survive and have fewer problems over time than those who receive care later in infancy or who have already developed an infection. SCID and other T-cell lymphopenias occur in approximately 1 in 23,000 births in the state of California. The average lifetime cost for an undiagnosed, or late diagnosed SCID case is conservatively estimated at approximately \$2.2 million per child, anecdotal information predicts that the expected incidence of SCID and related T-cell lymphopenias in California is 18 children per year, for a cost that may exceed \$40,000,000.

The Department has made the initial determination that this emergency action would not have a significant benefit or adverse impact on California worker's safety or have any effect on the state's environment.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

Private Person: Health insurance plans in California cover the cost of the newborn screening fee. Uninsured participants will be responsible for 100 percent of the total fee of \$111.70, the total costs to private persons are unknown. The maximum newborn screening fee in-

crease that an individual with or without partial health insurance would incur, is \$9.95. No adverse economic impact on individuals was reported to CDPH when past newborn screening fee increases were made.

Business: CDPH has made an initial determination that this emergency action would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. It is unlikely that a \$9.95 increase to the newborn screening fees is sufficient to require any significant increase in premiums for health insurance charged to covered beneficiaries. No adverse economic impact on businesses was reported to CDHP when past newborn screening fee increases were made.

BUSINESS REPORT

N/A

ALTERNATIVES STATEMENT

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory or other provision of law. The Department invites interested persons to comment with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSON

Robin Cooley, Genetic Disease Screening Program, (510) 412-1500. All other inquiries concerning the action described in this notice may be directed to Alana McKinzie, Office of Regulations, at (916) 440-7689, or to the designated backup contact person, Dawn Basciano (916) 440-7367.

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-11-020E.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file).

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (916) 440-7367 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

INTERNET ACCESS

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

TITLE 24. CALIFORNIA BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA STATE LANDS COMMISSION

REGARDING AMENDMENTS TO THE 2010 CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2

CHAPTER 31F MARINE OIL TERMINALS

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of CALIFORNIA STATE LANDS COMMISSION (CSLC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The CALIFORNIA STATE LANDS COMMISSION is proposing building standards related to Chapter 31F Marine Oil Terminals.

PUBLIC COMMENT PERIOD

The CSLC Staff will hold a public hearing at 10:00 a.m., on September 11, 2012, at the Port of Long Beach Board Room, 925 Harbor Plaza, Long Beach, CA 90802. The location is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing, relevant to the proposed regulatory action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing they attend.

This Notice of Proposed Action, Express Terms and Initial Statement of Reasons are also displayed on the CSLC website.

Written comments will be accepted by the California State Lands Commission regarding the proposed changes until 5:00 p.m. on September 11, 2012.

Please address your comments to:
 Ravindra Varma
 California State Lands Commission
 Marine Facilities Division
 200 Oceangate, Suite 900
 Long Beach, CA 90802

Written comments may also be submitted by facsimile to the attention of Ravindra Varma, by facsimile to (562) 499-6317 or by e-mail to ravi.varma@slc.ca.gov. All written comments submitted via e-mail must include “Title 24, Chapter 31F Comments” in the subject line of the e-mail.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CSLC may adopt the proposed amendments to the building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CSLC adopts, amends, or repeals the regulation(s). The CSLC will accept written comments on the modified building standards during the 15-day period, if applicable.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Authority Cited: Section 8755, 8756, and 8757, Public Resources Code.

Reference(s): Section 8750, 8751, 8755, and 8757, Public Resources Code.

Public Resources Code (P.R.C.) Section 8755 directs the California State Lands Commission to adopt rules, regulations and guidelines for reviewing the location, type, character, performance standards, size and operation of all existing and proposed marine oil terminals within the state.

Public Resources Code (P.R.C.) Section 8756 provides for periodic review and modification of regulations that the Commission has adopted, so that marine oil terminals within the Commission’s jurisdiction always provide best achievable protection of the public health and safety, and the environment. The Commission Staff inspects the marine oil terminals pursuant to Title 2 CCR, Section 2320, made under the authority of the Public Resources Code 8757.

INFORMATIVE DIGEST

This regulatory action updates Chapter 31F, Marine Oil Terminals, of the 2010 California Code of Regulations, Title 24, Part 2, California Building Code which became effective January 1, 2011. The following Sections, Tables and Figures of the 2010 California Code of Regulations, Title 24, Part 2, Chapter 31F will be affected by the proposed regulatory action:

Section/Table/Figure:	Title:
3101F.2	Purpose.
3101F.4	Overview.
3101F.6.2	Division review.
3102F.1.2	Audit and inspections types.

Table 31F-2-2	MAXIMUM INTERVAL BETWEEN UNDER-WATER AUDIT INSPECTIONS (YEARS) ¹	3102F.3.9	Action plan implementation report.
3102F.1.5	Baseline inspection.	3102F.4.4	Post-Event ratings.
3102F.3	Audit.	3102F.4.5	Follow-up actions.
3102F.3.1	Objective.	3103F.5.2.1.2	Survival condition.
3102F.3.2	Overview.	3103F.6.1	General.
3102F.3.3.1	Initial audit.	3103F.6.7	Berthing velocity and angle.
3102F.3.3.2	Subsequent audits.	3103F.8.7	Berthing load (B _e).
3102F.3.4.4	Seismic structural analyst.	3103F.8.8	Earthquake loads (E).
3102F.3.4.6	Mechanical inspection team.	Table 31F-3-14	SAFETY FACTORS FOR ROPES*
3102F.3.4.7	Divisional representation.	3103F.10	Mooring hardware.
3102F.3.5	Scope of inspection.	3103F.10.1	Quick release hooks.
3102F.3.5.1	Above water structural inspection.	3104F.2.1	Design earthquake motions.
Table 31F-2-3	UNDERWATER INSPECTION LEVELS OF EFFORT [2.2]	3104F.5	Nonstructural components.
Table 31F-2-4	SCOPE OF UNDERWATER INSPECTIONS [2.2]	3104F.5.1	Mass contribution.
3102F.3.5.2	Underwater structural inspection.	3104F.5.2	Seismic loads.
3102F.3.5.4	Mechanical electrical equipment.	3104F.6	Nonstructural critical systems assessment.
Figure 31F-2-1	EXAMPLE, STATEMENT OF TERMINAL OPERATING LIMITS	3104F.7	Symbols.
Table 31F-2-5	CONDITION ASSESSMENT RATINGS (CAR) [2.2]	3104F.8	References.
3102F.3.6.2	Mooring and berthing.	3105F.1.3	Mooring/berthing risk classification.
3102F.3.6.3	Structure.	Table 31F-5-1	MOORING/BERTHING RISK CLASSIFICATION
Table 31F-2-6	COMPONENT DEFICIENCY REMEDIAL ACTION PRIORITIES (RAP)	3105F.1.4	New MOTs.
Table 31F-2-7	STRUCTURAL FOLLOW-UP ACTIONS [2.2]	3105F.1.5	Analysis and design of mooring components.
Executive Summary Table (ES-1)	GLOBAL STRUCTURAL CONDITION ASSESSMENT RATINGS (CAR)	3105F.2	Mooring analyses.
Executive Summary Table (ES-2)	COMPONENT DEFICIENCY REMEDIAL ACTION PRIORITIES (RAP)	3105F.2.1	Manual procedure.
Table 31F-2-8	POST-EVENT RATINGS AND REMEDIAL ACTIONS [2.2]	3105F.2.2	Numerical procedure.
3102F.3.6.4	Mechanical and electrical systems.	3105F.3.2	Passing vessels.
3102F.3.7	Follow-up actions.	3105F.3.3	Seiche.
3102F.3.8	Documentation and reporting.	3105F.4	Berthing analysis and design.
		3105F.4.3.1	Continuous fender system.
		Table 31F-5-2	CONTACT LENGTH
		3105F.4.4	Longitudinal and vertical berthing forces.
		Table 31F-5-3	COEFFICIENT OF FRICTION
		3105F.4.5	Design and selection of new fender systems.
		3105F.5	Layout of new MOTs.
		3105F.7	References.
		3106F.5	Soil structure interaction.
		3107F.2.1.2	Knowledge factor (k).
		3107F.2.5.4	Plastic rotation.
		3107F.2.5.7	Shear design.
		3108F.2.2	Fire plan (N/E).
		3108F.3.2	Emergency shutdown systems.
		Table 31F-8-2	FIRE HAZARD CLASSIFICATIONS
		3108F.4	Fire detection.

¹ Please refer to Title 24, Part 2, Chapter 31F.

3108F.5	Fire alarms.
3108F.6	Fire suppression.
3108F.6.2	Fire hydrants.
3108F.6.3	Fire water.
3108F.6.6	Supplemental Fire Suppression Systems (E).
3108F.7	References.
3109F.3	Pipeline stress analysis (N/E).
3109F.4	Anchors and supports.
3109F.5.1	Valves and fittings.
3109F.6	Utility and auxiliary piping systems.
3109F.7	References.
3110F.9	References.
3111F.8	Illumination (N/E).
3111F.9	Communications and control systems.
3111F.9.1	Communication systems (N/E).
3111 F.9.2	Overfill monitoring and controls (N/E).
3111F.10.1	Corrosion assessment (N/E).
3111F.10.2	Inspection, testing and records (N/E).
3111F.11	References.

Additionally, the following new Sections will be created:

Section	Title:
3101F.7	Alternatives.
3108F.7	Critical systems seismic assessment (N/E).
3110F.9	Equipment & systems maintenance (N/E).
3110F.10	Pumps (N/E).
3110F.11	Critical systems seismic assessment (N/E).
3111F.5.1	Emergency power systems.
3111F.9.3	Monitoring systems (N/E).
3111F.11	Critical systems seismic assessment (N/E).

SUMMARY OF EXISTING LAWS

As under Section 6111 of the Public Resources Code (PRC), the CSLC is not to adopt building standards directly. The CSLC Staff is proposing to adopt the amendments to the 2010 California Code of Regulations (CCR), Title 24, Part 2, Chapter 31F, Marine Oil Terminals.

PRC Section 8755 states, in part, “. . .the Commission shall adopt, rules, regulations, guidelines, and Commission leasing policies for reviewing the location, type, character, performance standards, size, and operation of all existing and proposed marine oil termi-

nals within the state, whether or not on lands leased from the Commission, and all other marine facilities on lands under lease from the Commission to minimize the possibilities of a discharge of oil. Rules, regulations, and guidelines adopted by the Commission shall not conflict with regulations of the Administrator or the Coast Guard. The Commission shall ensure rules, regulations, guidelines, and Commission lease covenants provide the best achievable protection of public health and safety and the environment. . .”

The Commission Staff has determined that the proposed amendments to the standards will effectuate these mandates.

SUMMARY OF EXISTING REGULATIONS

The 2010 California Code of Regulations (CCR), Title 24, Part 2, Chapter 31F, Marine Oil Terminals are the only regulations relating to engineering analysis, design, rehabilitation, inspection, or maintenance of marine oil terminals. These regulations work in conjunction with other regulations made under the authority of the Public Resources Code, Section 8755 so that operators of marine oil terminals always provide best achievable protection to public health and safety, and the environment. Other regulations that have been made under this legislative authority and work in conjunction with Title 24, Chapter 31F are:

- Title 2, California Code of Regulations, Article 5 — Marine Terminals; Inspection and Monitoring
- Title 2, California Code of Regulations, Article 5.1 — Marine Terminal; Physical Security
- Title 2, California Code of Regulations, Article 5.3 — Marine Terminal; Personnel Training and Certification
- Title 2, California Code of Regulations, Article 5.5 — Marine Terminal Oil pipelines

SUMMARY OF EFFECT

- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.
- Other non-discretionary savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.

COMPARABLE FEDERAL STATUTE OR REGULATIONS

None.

POLICY STATEMENT OVERVIEW

As mandated in PRC 8750–8760 the Commission is charged with the responsibility to protect the public

health and safety and the environment in the operations of the marine oil terminals. The CSLC Staff has determined the proposed amendments to the existing standards will better meet the mandates of these PRC Sections and provide a better level of protection of the public health and safety and the environment than currently exists. The proposed regulatory action adds eight new sections and modifies other sections of the Title 24, Chapter 31F. These are non monetary benefits which will accrue as a result of this regulatory action.

EVALUATION OF CONSISTENCY

The proposed action is consistent and compatible with existing regulations, as they are amendments to it.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Commission Staff has determined that the proposed regulatory action would not impose a new reimbursable mandate to local governments, mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: No.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: No.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: No.
- D. Other nondiscretionary cost or savings imposed on local agencies: No.
- E. Cost or savings in federal funding to the state: No.

Estimate: See attached Form 399

INITIAL DETERMINATION OF SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Not Applicable.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The CSLC Staff has made the initial determination that the amendment of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The majority of the 102 proposed amendments to California Code of Regulations, Title 24, Part 2, Chapter 31F, Marine Oil Terminals correct, update, streamline or make more precise the existing standards and basically have no economic effect on the regulated community. The existing standards require significant actions that have associated costs. Any costs generated by these proposed amendments will be a small incremental portion of the cost incurred as a result of the existing standard and are balanced by a number of proposed amendments that provide significant cost savings benefits, while improving safety and increasing environmental protection.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

PRC 8755 states, in part, that “. . .The commission (CSLC) shall ensure that the rules, regulations, guidelines, and Commission lease covenants provide the best achievable protection of public health and safety and the environment. . .” The Commission Staff has determined these proposed amendments to the standards help provide the protection mandated and finds that as per Gov. Code 11346.3(d) it is necessary for the protection of public health and safety and the environment, or welfare of the people of the state that regulations apply to businesses.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The CSLC Staff is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The purpose of these proposed amendments to existing standards is to correct, clarify, streamline or make more precise the existing standards. These changes will continue to ensure that the facilities regulated by these standards are fit-for-purpose and provide the best achievable protection of the public health, safety, environment and improvements in the State's petroleum infrastructure.

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

The CSLC has assessed whether or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California.

The proposed amendments to CCR, Title 24, Part 2, Chapter 31F will not create jobs within California, because they mainly only correct, or modify or clarify the existing Code and do not change the overall effect.

- The creation of new businesses or the elimination of existing businesses within the State of California.

The proposed amendments to CCR, Title 24, Part 2, Chapter 31F will not create new businesses or eliminate existing businesses within California.

- The expansion of businesses currently doing business within the State of California.

The proposed amendments to CCR, Title 24, Part 2, Chapter 31F will not affect the expansion of businesses currently doing business within the State of California.

- The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The proposed amendments to CCR, Title 24, Part 2, Chapter 31F are beneficial to the health and welfare of California residents, worker safety, and the State's environment because they clarify and enhance the existing regulation, which "establishes minimum engineering, inspection and maintenance criteria for MOTs in order to protect public health, safety and the environment."

INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS

The Commission Staff has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

In accordance with the Government Code Section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of Commission Staff would be more effective

in carrying out the purpose for which this action is proposed or would be more effective and less burdensome to affected private persons and equally effective in implementing the statutory provisions of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act.

To date, no other alternatives have been presented to or considered by the Commission Staff, regarding the proposed amendments to the California Code of Regulation, Title 24, Part 2, chapter 31F, Marine Oil Terminals.

The CSLC invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing(s) or during the written comment period.

AVAILABILITY OF
RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This Notice of proposed Action, the Express Terms and Initial Statement of Reasons can be accessed from the California State Lands Commission website at:

http://www.slc.ca.gov/Division_Pages/MFD/MFD_Home_Page.html

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California State Lands Commission website, as above.

CSLC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

Ravindra Varma, Supervisor, Planning Branch
California State Lands Commission
Marine Facilities Division
200 Oceangate, Suite 900
Long Beach, CA 90802
562-499-6400
562-499-6317 (fax)
ravi.varma@slc.ca.gov

Please direct requests for copies of the proposed Express Terms, the Initial Statement of Reasons, the Modified Text of the proposed standards, if any, or other information upon which the rulemaking is based to Ravindra Varma at the above address.

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING CODE**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building code should be addressed to:

Dr. Avinash Nafday, P.E., Lead Engineer
California State Lands Commission
Marine Facilities Division
200 Oceangate, Suite 900
Long Beach, CA 90802
562-499-6312
562-499-6317 (fax)
avinash.nafday@slc.ca.gov

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

CESA CONSISTENCY DETERMINATION
REQUEST FOR
Kerns Pond Safe Harbor Agreement
(2089-2012-001-01)
Shasta County

On July 10, 2012, the Department of Fish and Game (Department) received a notice that Michael, Melanie, and Paul Kerns (Applicants) propose to rely on a federal safe harbor agreement to carry out a project that may provide a net conservation benefit to a species protected by the California Endangered Species Act (CESA). The proposed project involves enhancing habitat within a pond to provide a net conservation benefit for the Shasta crayfish (*Pacifastacus fortis*). The proposed project will occur in Cassel, Shasta County, California.

The July 10, 2012 notice requested a Department determination pursuant to California Fish and Game Code Section 2089.22, that the enhancement of survival permit (TE61021A-0) issued by the US Fish and Wildlife Service (Service) and safe harbor agreement (SHA) issued by the Service to the Applicant on March 23, 2012, are consistent with CESA for purposes of the proposed Project. If the Department determines the federal safe harbor agreement is consistent with CESA for the proposed Project, the Applicant will not be required to obtain a California state safe harbor agreement under Fish and Game Code section 2089 for the Project.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
CHEMICALS KNOWN TO THE STATE
TO CAUSE CANCER OR
REPRODUCTIVE TOXICITY
JULY 20, 2012

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

CHEMICALS KNOWN TO THE STATE TO CAUSE CANCER

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
A-alpha-C (2-Amino-9H-pyrido[2,3-b]indole)	26148-68-5	January 1, 1990
Acetaldehyde	75-07-0	April 1, 1988
Acetamide	60-35-5	January 1, 1990
Acetochlor	34256-82-1	January 1, 1989
2-Acetylaminofluorene	53-96-3	July 1, 1987
Acifluorfen sodium	62476-59-9	January 1, 1990
Acrylamide	79-06-1	January 1, 1990
Acrylonitrile	107-13-1	July 1, 1987
Actinomycin D	50-76-0	October 1, 1989
AF-2;[2-(2-furyl)-3-(5-nitro-2-furyl)]acrylamide	3688-53-7	July 1, 1987
Aflatoxins	—	January 1, 1988

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
Alachlor	15972-60-8	January 1, 1989
Alcoholic beverages, when associated with alcohol abuse	—	July 1, 1988
Aldrin	309-00-2	July 1, 1988
Allyl chloride <u>Delisted October 29, 1999</u>	107-05-1	January 1, 1990
2-Aminoanthraquinone	117-79-3	October 1, 1989
<i>p</i> -Aminoazobenzene	60-09-3	January 1, 1990
<i>ortho</i> -Aminoazotoluene	97-56-3	July 1, 1987
4-Aminobiphenyl (4-aminodiphenyl)	92-67-1	February 27, 1987
1-Amino-2,4-dibromoanthraquinone	81-49-2	August 26, 1997
3-Amino-9-ethylcarbazole hydrochloride	6109-97-3	July 1, 1989
2-Aminofluorene	153-78-6	January 29, 1999
1-Amino-2-methylantraquinone	82-28-0	October 1, 1989
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazole	712-68-5	July 1, 1987
4-Amino-2-nitrophenol	119-34-6	January 29, 1999
Amitrole	61-82-5	July 1, 1987
Amsacrine	51264-14-3	August 7, 2009
Analgesic mixtures containing phenacetin	—	February 27, 1987
Androstenedione	63-05-8	May 3, 2011
Aniline	62-53-3	January 1, 1990
Aniline hydrochloride	142-04-1	May 15, 1998
<i>ortho</i> -Anisidine	90-04-0	July 1, 1987
<i>ortho</i> -Anisidine hydrochloride	134-29-2	July 1, 1987
Antimony oxide (Antimony trioxide)	1309-64-4	October 1, 1990
Anthraquinone	84-65-1	September 28, 2007
Aramite	140-57-8	July 1, 1987
Areca nut	—	February 3, 2006
Aristolochic acids	—	July 9, 2004
Arsenic (inorganic arsenic compounds)	—	February 27, 1987
Asbestos	1332-21-4	February 27, 1987
Auramine	492-80-8	July 1, 1987
Azacitidine	320-67-2	January 1, 1992
Azaserine	115-02-6	July 1, 1987
Azathioprine	446-86-6	February 27, 1987
Azobenzene	103-33-3	January 1, 1990
Benthiavalicarb-isopropyl	177406-68-7	July 1, 2008
Benz[a]anthracene	56-55-3	July 1, 1987
Benzene	71-43-2	February 27, 1987
Benzidine [and its salts]	92-87-5	February 27, 1987
Benzidine-based dyes	—	October 1, 1992
Benzo[b]fluoranthene	205-99-2	July 1, 1987
Benzo[j]fluoranthene	205-82-3	July 1, 1987
Benzo[k]fluoranthene	207-08-9	July 1, 1987
Benzofuran	271-89-6	October 1, 1990
Benzophenone	119-61-9	June 22, 2012
Benzo[a]pyrene	50-32-8	July 1, 1987
Benzotrichloride	98-07-7	July 1, 1987
Benzyl chloride	100-44-7	January 1, 1990
Benzyl violet 4B	1694-09-3	July 1, 1987
Beryllium and beryllium compounds	—	October 1, 1987
Betel quid with tobacco	—	January 1, 1990
Betel quid without tobacco	—	February 3, 2006
2,2-Bis(bromomethyl)-1,3-propanediol	3296-90-0	May 1, 1996
Bis(2-chloroethyl)ether	111-44-4	April 1, 1988

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 29-Z

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornapazine)	494-03-1	February 27, 1987
Bischloroethyl nitrosourea (BCNU) (Carmustine)	154-93-8	July 1, 1987
Bis(chloromethyl)ether	542-88-1	February 27, 1987
Bis(2-chloro-1-methylethyl) ether, technical grade	—	October 29, 1999
Bitumens, extracts of steam-refined and air refined	—	January 1, 1990
Bracken fern	—	January 1, 1990
Bromate	15541-45-4	May 31, 2002
Bromochloroacetic acid	5589-96-8	April 6, 2010
Bromodichloromethane	75-27-4	January 1, 1990
Bromoethane	74-96-4	December 22, 2000
Bromoform	75-25-2	April 1, 1991
1,3-Butadiene	106-99-0	April 1, 1988
1,4-Butanediol dimethanesulfonate (Busulfan)	55-98-1	February 27, 1987
Butylated hydroxyanisole	25013-16-5	January 1, 1990
beta-Butyrolactone	3068-88-0	July 1, 1987
Cacodylic acid	75-60-5	May 1, 1996
Cadmium and cadmium compounds	—	October 1, 1987
Caffeic acid	331-39-5	October 1, 1994
Captafol	2425-06-1	October 1, 1988
Captan	133-06-2	January 1, 1990
Carbaryl	63-25-2	February 5, 2010
Carbazole	86-74-8	May 1, 1996
Carbon black (airborne, unbound particles of respirable size)	1333-86-4	February 21, 2003
Carbon tetrachloride	56-23-5	October 1, 1987
Carbon-black extracts	—	January 1, 1990
N-Carboxymethyl-N-nitrosourea	60391-92-6	January 25, 2002
Catechol	120-80-9	July 15, 2003
Ceramic fibers (airborne particles of respirable size)	—	July 1, 1990
Certain combined chemotherapy for lymphomas	—	February 27, 1987
Chlorambucil	305-03-3	February 27, 1987
Chloramphenicol	56-75-7	October 1, 1989
Chlordane	57-74-9	July 1, 1988
Chlordecone (Kepone)	143-50-0	January 1, 1988
Chlordimeform	6164-98-3	January 1, 1989
Chlorendic acid	115-28-6	July 1, 1989
Chlorinated paraffins (Average chain length, C12; approximately 60 percent chlorine by weight)	108171-26-2	July 1, 1989
p-Chloroaniline	106-47-8	October 1, 1994
p-Chloroaniline hydrochloride	20265-96-7	May 15, 1998
Chlorodibromomethane <u>Delisted October 29, 1999</u>	124-48-1	January 1, 1990
Chloroethane (Ethyl chloride)	75-00-3	July 1, 1990
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	13010-47-4	January 1, 1988
1-(2-Chloroethyl)-3-(4-methylcyclohexyl)-1-nitrosourea (Methyl-CCNU)	13909-09-6	October 1, 1988
Chloroform	67-66-3	October 1, 1987
Chloromethyl methyl ether (technical grade)	107-30-2	February 27, 1987
3-Chloro-2-methylpropene	563-47-3	July 1, 1989
1-Chloro-4-nitrobenzene	100-00-5	October 29, 1999
4-Chloro-ortho-phenylenediamine	95-83-0	January 1, 1988
p-Chloro-o-toluidine	95-69-2	January 1, 1990
p-Chloro-o-toluidine, strong acid salts of	—	May 15, 1998
5-Chloro-o-toluidine and its strong acid salts	—	October 24, 1997

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
Chloroprene	126-99-8	June 2, 2000
Chlorothalonil	1897-45-6	January 1, 1989
Chlorotrianisene	569-57-3	September 1, 1996
Chlorozotocin	54749-90-5	January 1, 1992
Chromium (hexavalent compounds)	—	February 27, 1987
Chrysene	218-01-9	January 1, 1990
C.I. Acid Red 114	6459-94-5	July 1, 1992
C.I. Basic Red 9 monohydrochloride	569-61-9	July 1, 1989
C.I. Direct Blue 15	2429-74-5	August 26, 1997
C.I. Direct Blue 218	28407-37-6	August 26, 1997
C.I. Solvent Yellow 14	842-07-9	May 15, 1998
Ciclosporin (Cyclosporin A; Cyclosporine)	59865-13-3	January 1, 1992
	79217-60-0	
Cidofovir	113852-37-2	January 29, 1999
Cinnamyl anthranilate	87-29-6	July 1, 1989
Cisplatin	15663-27-1	October 1, 1988
Citrus Red No. 2	6358-53-8	October 1, 1989
Clofibrate	637-07-0	September 1, 1996
Cobalt metal powder	7440-48-4	July 1, 1992
Cobalt [II] oxide	1307-96-6	July 1, 1992
Cobalt sulfate	10124-43-3	May 20, 2005
Cobalt sulfate heptahydrate	10026-24-1	June 2, 2000
Coconut oil diethanolamine condensate (cocamide diethanolamine)	68603-42-9	June 22, 2012
Coke oven emissions	—	February 27, 1987
Conjugated estrogens	—	February 27, 1987
Creosotes	—	October 1, 1988
<i>para</i> -Cresidine	120-71-8	January 1, 1988
Cumene	98-82-8	April 6, 2010
Cupferron	135-20-6	January 1, 1988
Cycasin	14901-08-7	January 1, 1988
Cyclopenta[<i>cd</i>]pyrene	27208-37-3	April 29, 2011
Cyclophosphamide (anhydrous)	50-18-0	February 27, 1987
Cyclophosphamide (hydrated)	6055-19-2	February 27, 1987
Cytembena	21739-91-3	May 15, 1998
D&C Orange No. 17	3468-63-1	July 1, 1990
D&C Red No. 8	2092-56-0	October 1, 1990
D&C Red No. 9	5160-02-1	July 1, 1990
D&C Red No. 19	81-88-9	July 1, 1990
Dacarbazine	4342-03-4	January 1, 1988
Daminozide	1596-84-5	January 1, 1990
Dantron (Chrysazin; 1,8-Dihydroxyanthraquinone)	117-10-2	January 1, 1992
Daunomycin	20830-81-3	January 1, 1988
DDD (Dichlorodiphenyldichloroethane)	72-54-8	January 1, 1989
DDE (Dichlorodiphenyldichloroethylene)	72-55-9	January 1, 1989
DDT (Dichlorodiphenyltrichloroethane)	50-29-3	October 1, 1987
DDVP (Dichlorvos)	62-73-7	January 1, 1989
N,N'-Diacetylbenzidine	613-35-4	October 1, 1989
2,4-Diaminoanisole	615-05-4	October 1, 1990
2,4-Diaminoanisole sulfate	39156-41-7	January 1, 1988
4,4'-Diaminodiphenyl ether (4,4'-Oxydianiline)	101-80-4	January 1, 1988
2,4-Diaminotoluene	95-80-7	January 1, 1988
Diaminotoluene (mixed)	—	January 1, 1990
Diazoaminobenzene	136-35-6	May 20, 2005

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
Dibenz[a,h]acridine	226-36-8	January 1, 1988
Dibenz[a,j]acridine	224-42-0	January 1, 1988
Dibenz[a,h]anthracene	53-70-3	January 1, 1988
7H-Dibenzo[c,g]carbazole	194-59-2	January 1, 1988
Dibenzo[a,e]pyrene	192-65-4	January 1, 1988
Dibenzo[a,h]pyrene	189-64-0	January 1, 1988
Dibenzo[a,i]pyrene	189-55-9	January 1, 1988
Dibenzo[a,l]pyrene	191-30-0	January 1, 1988
Dibromoacetic acid	631-64-1	June 17, 2008
Dibromoacetonitrile	3252-43-5	May 3, 2011
1,2-Dibromo-3-chloropropane (DBCP)	96-12-8	July 1, 1987
2,3-Dibromo-1-propanol	96-13-9	October 1, 1994
Dichloroacetic acid	79-43-6	May 1, 1996
<i>p</i> -Dichlorobenzene	106-46-7	January 1, 1989
3,3'-Dichlorobenzidine	91-94-1	October 1, 1987
3,3'-Dichlorobenzidine dihydrochloride	612-83-9	May 15, 1998
1,4-Dichloro-2-butene	764-41-0	January 1, 1990
3,3'-Dichloro-4,4'-diaminodiphenyl ether	28434-86-8	January 1, 1988
1,1-Dichloroethane	75-34-3	January 1, 1990
Dichloromethane (Methylene chloride)	75-09-2	April 1, 1988
1,2-Dichloropropane	78-87-5	January 1, 1990
1,3-Dichloro-2-propanol (1,3-DCP)	96-23-1	October 8, 2010
1,3-Dichloropropene	542-75-6	January 1, 1989
Diclofop-methyl	51338-27-3	April 6, 2010
Dieldrin	60-57-1	July 1, 1988
Dienestrol	84-17-3	January 1, 1990
Diepoxybutane	1464-53-5	January 1, 1988
Diesel engine exhaust	—	October 1, 1990
Diethanolamine	111-42-2	June 22, 2012
Di(2-ethylhexyl)phthalate	117-81-7	January 1, 1988
1,2-Diethylhydrazine	1615-80-1	January 1, 1988
Diethyl sulfate	64-67-5	January 1, 1988
Diethylstilbestrol (DES)	56-53-1	February 27, 1987
Diglycidyl resorcinol ether (DGRE)	101-90-6	July 1, 1989
Dihydrosafrole	94-58-6	January 1, 1988
Diisopropyl sulfate	2973-10-6	April 1, 1993
3,3'-Dimethoxybenzidine (ortho-Dianisidine)	119-90-4	January 1, 1988
3,3'-Dimethoxybenzidine dihydrochloride (ortho-Dianisidine dihydrochloride)	20325-40-0	October 1, 1990
3,3'-Dimethoxybenzidine-based dyes metabolized to 3,3'-dimethoxybenzidine	—	June 11, 2004
3,3'-Dimethylbenzidine-based dyes metabolized to 3,3'-dimethylbenzidine	—	June 11, 2004
Dimethyl sulfate	77-78-1	January 1, 1988
4-Dimethylaminoazobenzene	60-11-7	January 1, 1988
trans-2-[(Dimethylamino)methylimino]-5-[2-(5-nitro-2-furyl)vinyl]-1,3,4-oxadiazole	55738-54-0	January 1, 1988
7,12-Dimethylbenz(a)anthracene	57-97-6	January 1, 1990
3,3'-Dimethylbenzidine (ortho-Tolidine)	119-93-7	January 1, 1988
3,3'-Dimethylbenzidine dihydrochloride	612-82-8	April 1, 1992
Dimethylcarbamoyl chloride	79-44-7	January 1, 1988
1,1-Dimethylhydrazine (UDMH)	57-14-7	October 1, 1989
1,2-Dimethylhydrazine	540-73-8	January 1, 1988
Dimethylvinylchloride	513-37-1	July 1, 1989

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
3,7-Dinitrofluoranthene	105735-71-5	August 26, 1997
3,9-Dinitrofluoranthene	22506-53-2	August 26, 1997
1,6-Dinitropyrene	42397-64-8	October 1, 1990
1,8-Dinitropyrene	42397-65-9	October 1, 1990
Dinitrotoluene mixture, 2,4-/2,6-	—	May 1, 1996
2,4-Dinitrotoluene	121-14-2	July 1, 1988
2,6-Dinitrotoluene	606-20-2	July 1, 1995
Di-n-propyl isocinchomeronate (MGK Repellent 326)	136-45-8	May 1, 1996
1,4-Dioxane	123-91-1	January 1, 1988
Diphenylhydantoin (Phenytoin)	57-41-0	January 1, 1988
Diphenylhydantoin (Phenytoin), sodium salt	630-93-3	January 1, 1988
Direct Black 38 (technical grade)	1937-37-7	January 1, 1988
Direct Blue 6 (technical grade)	2602-46-2	January 1, 1988
Direct Brown 95 (technical grade)	16071-86-6	October 1, 1988
Disperse Blue 1	2475-45-8	October 1, 1990
Diuron	330-54-1	May 31, 2002
Doxorubicin hydrochloride (Adriamycin)	25316-40-9	July 1, 1987
Epichlorohydrin	106-89-8	October 1, 1987
Epoxiconazole	135319-73-2	April 15, 2011
Erionite	12510-42-8/ 66733-21-9	October 1, 1988
Estradiol 17B	50-28-2	January 1, 1988
Estragole	140-67-0	October 29, 1999
Estrogens, steroidal	—	August 19, 2005
Estrogen-progestogen (combined) used as menopausal therapy	—	November 4, 2011
Estrone	53-16-7	January 1, 1988
Estropipate	7280-37-7	August 26, 1997
Ethanol in alcoholic beverages	—	April 29, 2011
Ethinylestradiol	57-63-6	January 1, 1988
Ethoprop	13194-48-4	February 27, 2001
Ethyl acrylate	140-88-5	July 1, 1989
Ethylbenzene	100-41-4	June 11, 2004
Ethyl methanesulfonate	62-50-0	January 1, 1988
Ethyl-4,4'-dichlorobenzilate	510-15-6	January 1, 1990
Ethylene dibromide	106-93-4	July 1, 1987
Ethylene dichloride (1,2-Dichloroethane)	107-06-2	October 1, 1987
Ethylene oxide	75-21-8	July 1, 1987
Ethylene thiourea	96-45-7	January 1, 1988
Ethyleneimine	151-56-4	January 1, 1988
Etoposide	33419-42-0	November 4, 2011
Etoposide in combination with cisplatin and bleomycin	—	November 4, 2011
Fenoxycarb	72490-01-8	June 2, 2000
Folpet	133-07-3	January 1, 1989
Formaldehyde (gas)	50-00-0	January 1, 1988
2-(2-Formylhydrazino)-4-(5-nitro-2-furyl)thiazole	3570-75-0	January 1, 1988
FumonisinB ₁	116355-83-0	November 14, 2003
Furan	110-00-9	October 1, 1993
Furazolidone	67-45-8	January 1, 1990
Furmecyclox	60568-05-0	January 1, 1990
Fusarin C	79748-81-5	July 1, 1995
Gallium arsenide	1303-00-0	August 1, 2008
Ganciclovir	82410-32-0	August 26, 1997
Gasoline engine exhaust (condensates/extracts)	—	October 1, 1990

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 29-Z

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Gemfibrozil	25812-30-0	December 22, 2000
Glasswool fibers (inhalable and biopersistent)	—	July 1, 1990
Glu-P-1 (2-Amino-6-methyldipyrido[1,2-a:3',2'-d]imidazole)	67730-11-4	January 1, 1990
Glu-P-2 (2-Aminodipyrido[1,2-a:3',2'-d]imidazole)	67730-10-3	January 1, 1990
Glycidaldehyde	765-34-4	January 1, 1988
Glycidol	556-52-5	July 1, 1990
Griseofulvin	126-07-8	January 1, 1990
Gyromitrin (Acetaldehyde methylformylhydrazone)	16568-02-8	January 1, 1988
HC Blue 1	2784-94-3	July 1, 1989
Heptachlor	76-44-8	July 1, 1988
Heptachlor epoxide	1024-57-3	July 1, 1988
Herbal remedies containing plant species of the genus Aristolochia	—	July 9, 2004
Hexachlorobenzene	118-74-1	October 1, 1987
Hexachlorobutadiene	87-68-3	May 3, 2011
Hexachlorocyclohexane (technical grade)	—	October 1, 1987
Hexachlorodibenzodioxin	34465-46-8	April 1, 1988
Hexachloroethane	67-72-1	July 1, 1990
2,4-Hexadienal (89% trans, trans isomer; 11% cis, trans isomer)	—	March 4, 2005
Hexamethylphosphoramide	680-31-9	January 1, 1988
Hydrazine	302-01-2	January 1, 1988
Hydrazine sulfate	10034-93-2	January 1, 1988
Hydrazobenzene (1,2-Diphenylhydrazine)	122-66-7	January 1, 1988
1-Hydroxyanthraquinone	129-43-1	May 27, 2005
Imazalil	35554-44-0	May 20, 2011
Indeno [1,2,3-cd]pyrene	193-39-5	January 1, 1988
Indium phosphide	22398-80-7	February 27, 2001
IQ (2-Amino-3-methylimidazo[4,5-f]quinoline)	76180-96-6	April 1, 1990
Iprodione	36734-19-7	May 1, 1996
Iprovalicarb	140923-17-7	June 1, 2007
	140923-25-7	
Iron dextran complex	9004-66-4	January 1, 1988
Isobutyl nitrite	542-56-3	May 1, 1996
Isoprene	78-79-5	May 1, 1996
<u>Isopyrazam</u>	<u>881685-58-1</u>	<u>July 24, 2012</u>
<u>Isosafrole Delisted December 8, 2006</u>	<u>120-58-1</u>	<u>October 1, 1989</u>
Isoxaflutole	141112-29-0	December 22, 2000
Kresoxim-methyl	143390-89-0	February 3, 2012
Lactofen	77501-63-4	January 1, 1989
Lasiocarpine	303-34-4	April 1, 1988
Lead acetate	301-04-2	January 1, 1988
Lead and lead compounds	—	October 1, 1992
Lead phosphate	7446-27-7	April 1, 1988
Lead subacetate	1335-32-6	October 1, 1989
Leather dust	—	April 29, 2011
Lindane and other hexachlorocyclohexane isomers	—	October 1, 1989
Lynestrenol	52-76-6	February 27, 2001
Malonaldehyde, sodium salt	24382-04-5	May 3, 2011
Mancozeb	8018-01-7	January 1, 1990
Maneb	12427-38-2	January 1, 1990
Marijuana smoke	—	June 19, 2009
Me-A-alpha-C (2-Amino-3-methyl-9H-pyrido[2,3-b]indole)	68006-83-7	January 1, 1990
Medroxyprogesterone acetate	71-58-9	January 1, 1990

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
MeIQ(2-Amino-3,4-dimethylimidazo[4,5-f]quinoline)	77094-11-2	October 1, 1994
MeIQx(2-Amino-3,8-dimethylimidazo[4,5-f]quinoxaline)	77500-04-0	October 1, 1994
Melphalan	148-82-3	February 27, 1987
Mepanipyridin	110235-47-7	July 1, 2008
Merphalan	531-76-0	April 1, 1988
Mestranol	72-33-3	April 1, 1988
Metam potassium	137-41-7	December 31, 2010
Metham sodium	137-42-8	November 6, 1998
8-Methoxypsoralen with ultraviolet A therapy	298-81-7	February 27, 1987
5-Methoxypsoralen with ultraviolet A therapy	484-20-8	October 1, 1988
2-Methylaziridine (Propyleneimine)	75-55-8	January 1, 1988
Methylazoxymethanol	590-96-5	April 1, 1988
Methylazoxymethanol acetate	592-62-1	April 1, 1988
Methyl carbamate	598-55-0	May 15, 1998
3-Methylcholanthrene	56-49-5	January 1, 1990
5-Methylchrysene	3697-24-3	April 1, 1988
4,4' -Methylene bis(2-chloroaniline)	101-14-4	July 1, 1987
4,4' -Methylene bis(N,N-dimethyl)benzenamine	101-61-1	October 1, 1989
4,4' -Methylene bis(2-methylaniline)	838-88-0	April 1, 1988
4,4' -Methylenedianiline	101-77-9	January 1, 1988
4,4' -Methylenedianiline dihydrochloride	13552-44-8	January 1, 1988
Methyleugenol	93-15-2	November 16, 2001
Methylhydrazine and its salts	—	July 1, 1992
2-Methylimidazole	693-98-1	June 22, 2012
4-Methylimidazole	822-36-6	January 7, 2011
Methyl iodide	74-88-4	April 1, 1988
Methyl isobutyl ketone	108-10-1	November 4, 2011
Methylmercury compounds	—	May 1, 1996
Methyl methanesulfonate	66-27-3	April 1, 1988
2-Methyl-1-nitroanthraquinone (of uncertain purity)	129-15-7	April 1, 1988
N-Methyl-N' -nitro-N-nitrosoguanidine	70-25-7	April 1, 1988
N-Methylolacrylamide	924-42-5	July 1, 1990
Methylthiouracil	56-04-2	October 1, 1989
Metiram	9006-42-2	January 1, 1990
Metronidazole	443-48-1	January 1, 1988
Michler's ketone	90-94-8	January 1, 1988
Mirex	2385-85-5	January 1, 1988
Mitomycin C	50-07-7	April 1, 1988
MON 4660 (dichloroacetyl-1-oxa-4-azaspiro(4,5)-decane)	71526-07-3	March 22, 2011
MON 13900 (furalazole)	121776-33-8	March 22, 2011
3-Monochloropropane-1,2-diol (3-MCPD)	96-24-2	October 8, 2010
Monocrotaline	315-22-0	April 1, 1988
MOPP (vincristine-prednisone-nitrogen mustard-procarbazine mixture)	113803-47-7	November 4, 2011
5-(Morpholinomethyl)-3-[(5-nitro-furfurylidene)-amino]-2-oxazolidinone	139-91-3	April 1, 1988
Mustard Gas	505-60-2	February 27, 1987
MX (3-chloro-4-(dichloromethyl)-5-hydroxy-2(5H)-furanone)	77439-76-0	December 22, 2000
Nafenopin	3771-19-5	April 1, 1988
Nalidixic acid	389-08-2	May 15, 1998
Naphthalene	91-20-3	April 19, 2002
1-Naphthylamine	134-32-7	October 1, 1989
2-Naphthylamine	91-59-8	February 27, 1987

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 29-Z

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Nickel (Metallic)	7440-02-0	October 1, 1989
Nickel acetate	373-02-4	October 1, 1989
Nickel carbonate	3333-67-3	October 1, 1989
Nickel carbonyl	13463-39-3	October 1, 1987
Nickel compounds	—	May 7, 2004
Nickel hydroxide	12054-48-7; 12125-56-3	October 1, 1989
Nickelocene	1271-28-9	October 1, 1989
Nickel oxide	1313-99-1	October 1, 1989
Nickel refinery dust from the pyrometallurgical process	—	October 1, 1987
Nickel subsulfide	12035-72-2	October 1, 1987
Niridazole	61-57-4	April 1, 1988
Nitrapyrin	1929-82-4	October 5, 2005
Nitrioltriacetic acid	139-13-9	January 1, 1988
Nitrioltriacetic acid, trisodium salt monohydrate	18662-53-8	April 1, 1989
5-Nitroacenaphthene	602-87-9	April 1, 1988
5-Nitro- <i>o</i> -anisidine <u>Delisted December 8, 2006</u>	99-59-2	October 1, 1989
<i>o</i> -Nitroanisole	91-23-6	October 1, 1992
Nitrobenzene	98-95-3	August 26, 1997
4-Nitrobiphenyl	92-93-3	April 1, 1988
6-Nitrochrysene	7496-02-8	October 1, 1990
Nitrofen (technical grade)	1836-75-5	January 1, 1988
2-Nitrofluorene	607-57-8	October 1, 1990
Nitrofurazone	59-87-0	January 1, 1990
1-[(5-Nitrofurfurylidene)-amino]-2-imidazolidinone	555-84-0	April 1, 1988
N-[4-(5-Nitro-2-furyl)-2-thiazolyl]acetamide	531-82-8	April 1, 1988
Nitrogen mustard (Mechlorethamine)	51-75-2	January 1, 1988
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	55-86-7	April 1, 1988
Nitrogen mustard N-oxide	126-85-2	April 1, 1988
Nitrogen mustard N-oxide hydrochloride	302-70-5	April 1, 1988
Nitromethane	75-52-5	May 1, 1997
2-Nitropropane	79-46-9	January 1, 1988
1-Nitropyrene	5522-43-0	October 1, 1990
4-Nitropyrene	57835-92-4	October 1, 1990
N-Nitrosodi-n-butylamine	924-16-3	October 1, 1987
N-Nitrosodiethanolamine	1116-54-7	January 1, 1988
N-Nitrosodiethylamine	55-18-5	October 1, 1987
N-Nitrosodimethylamine	62-75-9	October 1, 1987
<i>p</i> -Nitrosodiphenylamine	156-10-5	January 1, 1988
N-Nitrosodiphenylamine	86-30-6	April 1, 1988
N-Nitrosodi-n-propylamine	621-64-7	January 1, 1988
N-Nitroso-N-ethylurea	759-73-9	October 1, 1987
3-(N-Nitrosomethylamino)propionitrile	60153-49-3	April 1, 1990
4-(N-Nitrosomethylamino)-1-(3-pyridyl)1-butanone	64091-91-4	April 1, 1990
N-Nitrosomethylethylamine	10595-95-6	October 1, 1989
N-Nitroso-N-methylurea	684-93-5	October 1, 1987
N-Nitroso-N-methylurethane	615-53-2	April 1, 1988
N-Nitrosomethylvinylamine	4549-40-0	January 1, 1988
N-Nitrosomorpholine	59-89-2	January 1, 1988
N-Nitrosornicotine	16543-55-8	January 1, 1988
N-Nitrosopiperidine	100-75-4	January 1, 1988
N-Nitrosopyrrolidine	930-55-2	October 1, 1987
N-Nitrososarcosine	13256-22-9	January 1, 1988
<i>o</i> -Nitrotoluene	88-72-2	May 15, 1998

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
Norethisterone (Norethindrone)	68-22-4	October 1, 1989
Norethynodrel	68-23-5	February 27, 2001
Ochratoxin A	303-47-9	July 1, 1990
Oil Orange SS	2646-17-5	April 1, 1988
Oral contraceptives, combined	—	October 1, 1989
Oral contraceptives, sequential	—	October 1, 1989
Oryzalin	19044-88-3	September 12, 2008
Oxadiazon	19666-30-9	July 1, 1991
Oxazepam	604-75-1	October 1, 1994
Oxymetholone	434-07-1	January 1, 1988
Oxythioquinox (Chinomethionat)	2439-01-2	August 20, 1999
Palygorskite fibers (> 5µm in length)	12174-11-7	December 28, 1999
Panfuran S	794-93-4	January 1, 1988
Pentachlorophenol	87-86-5	January 1, 1990
Phenacetin	62-44-2	October 1, 1989
Phenazopyridine	94-78-0	January 1, 1988
Phenazopyridine hydrochloride	136-40-3	January 1, 1988
Phenesterin	3546-10-9	July 1, 1989
Phenobarbital	50-06-6	January 1, 1990
Phenolphthalein	77-09-8	May 15, 1998
Phenoxybenzamine	59-96-1	April 1, 1988
Phenoxybenzamine hydrochloride	63-92-3	April 1, 1988
<i>o</i> -Phenylenediamine and its salts	95-54-5	May 15, 1998
Phenyl glycidyl ether	122-60-1	October 1, 1990
Phenylhydrazine and its salts	—	July 1, 1992
<i>o</i> -Phenylphenate, sodium	132-27-4	January 1, 1990
<i>o</i> -Phenylphenol	90-43-7	August 4, 2000
PhiP(2-Amino-1-methyl-6-phenylimidazol[4,5-b]pyridine)	105650-23-5	October 1, 1994
Pirmicarb	23103-98-2	July 1, 2008
Polybrominated biphenyls	—	January 1, 1988
Polychlorinated biphenyls	—	October 1, 1989
Polychlorinated biphenyls (containing 60 or more percent chlorine by molecular weight)	—	January 1, 1988
Polychlorinated dibenzo-p-dioxins	—	October 1, 1992
Polychlorinated dibenzofurans	—	October 1, 1992
Polygeenan	53973-98-1	January 1, 1988
Ponceau MX	3761-53-3	April 1, 1988
Ponceau 3R	3564-09-8	April 1, 1988
Potassium bromate	7758-01-2	January 1, 1990
Pirimicarb	23103-98-2	July 1, 2008
Primidone	125-33-7	August 20, 1999
Procarbazine	671-16-9	January 1, 1988
Procarbazine hydrochloride	366-70-1	January 1, 1988
Procymidone	32809-16-8	October 1, 1994
Progesterone	57-83-0	January 1, 1988
Pronamide	23950-58-5	May 1, 1996
Propachlor	1918-16-7	February 27, 2001
1,3-Propane sultone	1120-71-4	January 1, 1988
Propargite	2312-35-8	October 1, 1994
beta-Propiolactone	57-57-8	January 1, 1988
Propoxur	114-26-1	August 11, 2006
Propylene glycol mono- <i>t</i> -butyl ether	57018-52-7	June 11, 2004
Propylene oxide	75-56-9	October 1, 1988

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 29-Z

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Propylthiouracil	51-52-5	January 1, 1988
Pymetrozine	123312-89-0	March 22, 2011
Pyridine	110-86-1	May 17, 2002
Quinoline and its strong acid salts	—	October 24, 1997
Radionuclides	—	July 1, 1989
Reserpine	50-55-5	October 1, 1989
Residual (heavy) fuel oils	—	October 1, 1990
Resmethrin	10453-86-8	July 1, 2008
Riddelliine	23246-96-0	December 3, 2004
<u>Saccharin Delisted April 6, 2001</u>	81-07-2	October 1, 1989
<u>Saccharin, sodium Delisted January 17, 2003</u>	128-44-9	January 1, 1988
Safrole	94-59-7	January 1, 1988
Salted fish, Chinese-style	—	April 29, 2011
Selenium sulfide	7446-34-6	October 1, 1989
Shale-oils	68308-34-9	April 1, 1990
Silica, crystalline (airborne particles of respirable size)	—	October 1, 1988
Soots, tars, and mineral oils (untreated and mildly treated oils and used engine oils)	—	February 27, 1987
Spirodiclofen	148477-71-8	October 8, 2010
Spironolactone	52-01-7	May 1, 1997
Stanozolol	10418-03-8	May 1, 1997
Sterigmatocystin	10048-13-2	April 1, 1988
Streptozotocin (streptozocin)	18883-66-4	January 1, 1988
Strong inorganic acid mists containing sulfuric acid	—	March 14, 2003
Styrene oxide	96-09-3	October 1, 1988
Sulfallate	95-06-7	January 1, 1988
Sulfasalazine (Salicylazosulfapyridine)	599-79-1	May 15, 1998
Talc containing asbestiform fibers	—	April 1, 1990
Tamoxifen and its salts	10540-29-1	September 1, 1996
Terrazole	2593-15-9	October 1, 1994
Testosterone and its esters	58-22-0	April 1, 1988
<u>3,3',4,4'-Tetrachloroazobenzene</u>	14047-09-7	July 24, 2012
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	1746-01-6	January 1, 1988
1,1,2,2-Tetrachloroethane	79-34-5	July 1, 1990
Tetrachloroethylene (Perchloroethylene)	127-18-4	April 1, 1988
p-a,a,a-Tetrachlorotoluene	5216-25-1	January 1, 1990
Tetrafluoroethylene	116-14-3	May 1, 1997
Tetranitromethane	509-14-8	July 1, 1990
Thioacetamide	62-55-5	January 1, 1988
4,4'-Thiodianiline	139-65-1	April 1, 1988
Thiodicarb	59669-26-0	August 20, 1999
Thiouracil	141-90-2	June 11, 2004
Thiourea	62-56-6	January 1, 1988
Thorium dioxide	1314-20-1	February 27, 1987
Titanium dioxide (airborne, unbound particles of respirable size)	—	September 2, 2011
Tobacco, oral use of smokeless products	—	April 1, 1988
Tobacco smoke	—	April 1, 1988
Toluene diisocyanate	26471-62-5	October 1, 1989
ortho-Toluidine	95-53-4	January 1, 1988
ortho-Toluidine hydrochloride	636-21-5	January 1, 1988
<u>para-Toluidine Delisted October 29, 1999</u>	106-49-0	January 1, 1990
Toxaphene (Polychlorinated camphenes)	8001-35-2	January 1, 1988

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

CHEMICALS KNOWN TO THE STATE TO CAUSE REPRODUCTIVE TOXICITY

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CASNo.</u>	<u>Date Listed</u>
Acetazolamide	developmental	59-66-5	August 20, 1999
Acetohydroxamic acid	developmental	546-88-3	April 1, 1990
Acrylamide	developmental, male	79-06-1	February 25, 2011
Actinomycin D	developmental	50-76-0	October 1, 1992
All-trans retinoic acid	developmental	302-79-4	January 1, 1989
Alprazolam	developmental	28981-97-7	July 1, 1990
Altretamine	developmental, male	645-05-6	August 20, 1999
Amantadine hydrochloride	developmental	665-66-7	February 27, 2001
Amikacin sulfate	developmental	39831-55-5	July 1, 1990

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Aminoglutethimide	developmental	125-84-8	July 1, 1990
tert-Amyl methyl ether	developmental	994-05-8	December 18, 2009
Aminoglycosides	developmental	—	October 1, 1992
Aminopterin	developmental, female	54-62-6	July 1, 1987
Amiodarone hydrochloride	developmental, female, male	19774-82-4	August 26, 1997
Amitraz	developmental	33089-61-1	March 30, 1999
Amoxapine	developmental	14028-44-5	May 15, 1998
Anabolic steroids	female, male	—	April 1, 1990
Angiotensin converting enzyme (ACE) inhibitors	developmental	—	October 1, 1992
Anisindione	developmental	117-37-3	October 1, 1992
Arsenic (inorganic oxides)	developmental	—	May 1, 1997
Aspirin (NOTE: It is especially important not to use aspirin during the last three months of pregnancy, unless specifically directed to do so by a physician because it may cause problems in the unborn child or complications during delivery.)	developmental, female	50-78-2	July 1, 1990
Atenolol	developmental	29122-68-7	August 26, 1997
Auranofin	developmental	34031-32-8	January 29, 1999
Avermectin B1 (Abamectin)	developmental	71751-41-2	December 3, 2010
Azathioprine	developmental	446-86-6	September 1, 1996
Barbiturates	developmental	—	October 1, 1992
Beclomethasone dipropionate	developmental	5534-09-8	May 15, 1998
Benomyl	developmental, male	17804-35-2	July 1, 1991
Benzene	developmental, male	71-43-2	December 26, 1997
Benzodiazepines	developmental	—	October 1, 1992
Benzphetamine hydrochloride	developmental	5411-22-3	April 1, 1990
Bischloroethyl nitrosourea (BCNU) (Carmustine)	developmental	154-93-8	July 1, 1990
Bromacil lithium salt	developmental male	53404-19-6	May 18, 1999 January 17, 2003
1-Bromopropane	developmental, female, male	106-94-5	December 7, 2004
2-Bromopropane	female, male	75-26-3	May 31, 2005
Bromoxynil	developmental	1689-84-5	October 1, 1990
Bromoxynil octanoate	developmental	1689-99-2	May 18, 1999
Butabarbital sodium	developmental	143-81-7	October 1, 1992
1,3-Butadiene	developmental, female, male	106-99-0	April 16, 2004
1,4-Butanediol dimethane-sulfonate (Busulfan)	developmental	55-98-1	January 1, 1989
Butyl benzyl phthalate (BBP)	developmental	85-68-7	December 2, 2005
n-Butyl glycidyl ether	male	2426-08-6	August 7, 2009
Cadmium	developmental, male	—	May 1, 1997
Carbamazepine	developmental	298-46-4	January 29, 1999
Carbaryl	developmental, male	63-25.2	August 7, 2009
Carbon disulfide	developmental, female, male	75-15-0	July 1, 1989
Carbon monoxide	developmental	630-08-0	July 1, 1989
Carboplatin	developmental	41575-94-4	July 1, 1990
Chenodiol	developmental	474-25-9	April 1, 1990
Chlorambucil	developmental	305-03-3	January 1, 1989

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Chlorcyclizine hydrochloride	developmental	1620-21-9	July 1, 1987
Chlordecone (Kepone)	developmental	143-50-0	January 1, 1989
Chlordiazepoxide	developmental	58-25-3	January 1, 1992
Chlordiazepoxide hydrochloride	developmental	438-41-5	January 1, 1992
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	developmental	13010-47-4	July 1, 1990
Chloroform	developmental	67-66-3	August 7, 2009
2-Chloropropionic acid	male	598-78-7	August 7, 2009
Chlorsulfuron	developmental, female, male	64902-72-3	May 14, 1999
Chromium (hexavalent compounds)	developmental, female, male	—	December 19, 2008
Cidofovir	developmental, female, male	113852-37-2	January 29, 1999
Cladribine	developmental	4291-63-8	September 1, 1996
Clarithromycin	developmental	81103-11-9	May 1, 1997
Clobetasol propionate	developmental, female	25122-46-7	May 15, 1998
Clomiphene citrate	developmental	50-41-9	April 1, 1990
Clorazepate dipotassium	developmental	57109-90-7	October 1, 1992
Cocaine	developmental, female	50-36-2	July 1, 1989
Codeine phosphate	developmental	52-28-8	May 15, 1998
Colchicine	developmental, male	64-86-8	October 1, 1992
Conjugated estrogens	developmental	—	April 1, 1990
Cyanazine	developmental	21725-46-2	April 1, 1990
Cycloate	developmental	1134-23-2	March 19, 1999
Cyclohexanol	male	108-93-0	November 6, 1998
<u>Delisted January 25, 2002</u>			
Cycloheximide	developmental	66-81-9	January 1, 1989
Cyclophosphamide (anhydrous)	developmental, female, male	50-18-0	January 1, 1989
Cyclophosphamide (hydrated)	developmental, female, male	6055-19-2	January 1, 1989
Cyhexatin	developmental	13121-70-5	January 1, 1989
Cytarabine	developmental	147-94-4	January 1, 1989
Dacarbazine	developmental	4342-03-4	January 29, 1989
Danazol	developmental	17230-88-5	April 1, 1990
Daunorubicin hydrochloride	developmental	23541-50-6	July 1, 1990
2,4-D butyric acid	developmental, male	94-82-6	June 18, 1999
o,p' -DDT	developmental, female, male	789-02-6	May 15, 1998
p,p' -DDT	developmental, female, male	50-29-3	May 15, 1998
2,4 DP (dichloroprop)	developmental	120-36-5	April 27, 1999
<u>Delisted January 25, 2002</u>			
Demeclocycline hydrochloride (internal use)	developmental	64-73-3	January 1, 1992
Diazepam	developmental	439-14-5	January 1, 1992
Diazoxide	developmental	364-98-7	February 27, 2001
1,2-Dibromo-3-chloropropane (DBCP)	male	96-12-8	February 27, 1987
Di-n-butyl phthalate (DBP)	developmental, female, male	84-74-2	December 2, 2005
Dichloroacetic acid	male	79-43-6	August 7, 2009
1,1-Dichloro-2,2-bis(p-chlorophenyl) ethylene (DDE)	developmental, male	72-55-9	March 30, 2010
Dichlorophene	developmental	97-23-4	April 27, 1999
Dichlorophenamide	developmental	120-97-8	February 27, 2001
Diclofop methyl	developmental	51338-27-3	March 5, 1999
Dicumarol	developmental	66-76-2	October 1, 1992
Di(2-ethylhexyl)phthalate (DEHP)	developmental, male	117-81-7	October 24, 2003

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Diethylstilbestrol (DES)	developmental	56-53-1	July 1, 1987
Diflunisal	developmental, female	22494-42-4	January 29, 1999
Diglycidyl ether	male	2238-07-5	August 7, 2009
Di- <i>n</i> -hexyl phthalate (DnHP)	female, male	84-75-3	December 2, 2005
Dihydroergotamine mesylate	developmental	6190-39-2	May 1, 1997
Di-isodecyl phthalate (DIDP)	developmental	68515-49-1/ 26761-40-0	April 20, 2007
Diltiazem hydrochloride	developmental	33286-22-5	February 27, 2001
N,N-Dimethylacetamide	developmental	127-19-5	May 21, 2010
<i>m</i> -Dinitrobenzene	male	99-65-0	July 1, 1990
<i>o</i> -Dinitrobenzene	male	528-29-0	July 1, 1990
<i>p</i> -Dinitrobenzene	male	100-25-4	July 1, 1990
2,4-Dinitrotoluene	male	121-14-2	August 20, 1999
2,6-Dinitrotoluene	male	606-20-2	August 20, 1999
Dinitrotoluene (technical grade)	female, male	—	August 20, 1999
Dinocap	developmental	39300-45-3	April 1, 1990
Dinoseb	developmental, male	88-85-7	January 1, 1989
Diphenylhydantoin (Phenytoin)	developmental	57-41-0	July 1, 1987
Disodium cyanodithioimidocarbonate	developmental	138-93-2	March 30, 1999
Doxorubicin hydrochloride (Adriamycin)	developmental, male	25316-40-9	January 29, 1999
Doxycycline (internal use)	developmental	564-25-0	July 1, 1990
Doxycycline calcium (internal use)	developmental	94088-85-4	January 1, 1992
Doxycycline hyclate (internal use)	developmental	24390-14-5	October 1, 1991
Doxycycline monohydrate (internal use)	developmental	17086-28-1	October 1, 1991
Endrin	developmental	72-20-8	May 15, 1998
Environmental tobacco smoke (ETS)	developmental	—	June 9, 2006
Epichlorohydrin	male	106-89-8	September 1, 1996
Ergotamine tartrate	developmental	379-79-3	April 1, 1990
Estropipate	developmental	7280-37-7	August 26, 1997
Ethionamide	developmental	536-33-4	August 26, 1997
Ethyl alcohol in alcoholic beverages	developmental	—	October 1, 1987
Ethyl- <i>tert</i> -butyl ether	male	637-92-3	December 18, 2009
Ethyl dipropylthiocarbamate	developmental	759-94-4	April 27, 1999
Ethylene dibromide	developmental, male	106-93-4	May 15, 1998
Ethylene glycol monoethyl ether	developmental, male	110-80-5	January 1, 1989
Ethylene glycol monomethyl ether	developmental, male	109-86-4	January 1, 1989
Ethylene glycol monoethyl ether acetate	developmental, male	111-15-9	January 1, 1993
Ethylene glycol monomethyl ether acetate	developmental, male	110-49-6	January 1, 1993
Ethylene oxide	female	75-21-8	February 27, 1987
	developmental, male		August 7, 2009
Ethylene thiourea	developmental	96-45-7	January 1, 1993
2-Ethylhexanoic acid	developmental	149-57-5	August 7, 2009
Etodolac	developmental, female	41340-25-4	August 20, 1999
Etoposide	developmental	33419-42-0	July 1, 1990
Etretinate	developmental	54350-48-0	July 1, 1987
Fenoxaprop ethyl	developmental	66441-23-4	March 26, 1999
Filgrastim	developmental	121181-53-1	February 27, 2001
Fluazifop butyl	developmental	69806-50-4	November 6, 1998
Flunisolide	developmental, female	3385-03-3	May 15, 1998

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Fluorouracil	developmental	51-21-8	January 1, 1989
Fluoxymesterone	developmental	76-43-7	April 1, 1998
Flurazepam hydrochloride	developmental	1172-18-5	October 1, 1992
Flurbiprofen	developmental, female	5104-49-4	August 20, 1999
Flutamide	developmental	13311-84-7	July 1, 1990
Fluticasone propionate	developmental	80474-14-2	May 15, 1998
Fluvalinate	developmental	69409-94-5	November 6, 1998
Ganciclovir	developmental, male	82410-32-0	August 26, 1997
Ganciclovir sodium	developmental, male	107910-75-8	August 26, 1997
Gemfibrozil	female, male	25812-30-0	August 20, 1999
Goserelin acetate	developmental, female, male	65807-02-5	August 26, 1997
Halazepam	developmental	23092-17-3	July 1, 1990
Halobetasol propionate	developmental	66852-54-8	August 20, 1999
Haloperidol	developmental, female	52-86-8	January 29, 1999
Halothane	developmental	151-67-7	September 1, 1996
Heptachlor	developmental	76-44-8	August 20, 1999
Hexachlorobenzene	developmental	118-74-1	January 1, 1989
Hexafluoroacetone	male	684-16-2	August 1, 2008
Hexamethylphosphoramide	male	680-31-9	October 1, 1994
Histrelin acetate	developmental	—	May 15, 1998
Hydramethylnon	developmental, male	67485-29-4	March 5, 1999
Hydroxyurea	developmental	127-07-1	May 1, 1997
Idarubicin hydrochloride	developmental, male	57852-57-0	August 20, 1999
Ifosfamide	developmental	3778-73-2	July 1, 1990
Iodine-131	developmental	10043-66-0	January 1, 1989
Isotretinoin	developmental	4759-48-2	July 1, 1987
Lead	developmental, female, male	—	February 27, 1987
Leuprolide acetate	developmental, female, male	74381-53-6	August 26, 1997
Levodopa	developmental	59-92-7	January 29, 1999
Levonorgestrel implants	female	797-63-7	May 15, 1998
Linuron	developmental	330-55-2	March 19, 1999
Lithium carbonate	developmental	554-13-2	January 1, 1991
Lithium citrate	developmental	919-16-4	January 1, 1991
Lorazepam	developmental	846-49-1	July 1, 1990
Lovastatin	developmental	75330-75-5	October 1, 1992
Mebendazole	developmental	31431-39-7	August 20, 1999
Megestrol acetate	developmental	595-33-5	January 1, 1991
Melphalan	developmental	148-82-3	July 1, 1990
Menotropins	developmental	9002-68-0	April 1, 1990
Meproamate	developmental	57-53-4	January 1, 1992
Mercaptopurine	developmental	6112-76-1	July 1, 1990
Mercury and mercury compounds	developmental	—	July 1, 1990
Methacycline hydrochloride	developmental	3963-95-9	January 1, 1991
Methanol	developmental	67-56-1	March 16, 2012
Metham sodium	developmental	137-42-8	May 15, 1998
Methazole	developmental	20354-26-1	December 1, 1999
Methimazole	developmental	60-56-0	July 1, 1990
Methotrexate	developmental	59-05-2	January 1, 1989
Methotrexate sodium	developmental	15475-56-6	April 1, 1990
Methyl bromide as a structural fumigant	developmental	74-83-9	January 1, 1993

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Methyl chloride	developmental male	74-87-3	March 10, 2000 August 7, 2009
Methyl n-butyl ketone	male	591-78-6	August 7, 2009
Methyl isocyanate (MIC)	developmental, female	624-83-9	November 12, 2010
Methyl isopropyl ketone	developmental	563-80-4	February 17, 2012
Methyl mercury	developmental	—	July 1, 1987
N-Methylpyrrolidone	developmental	872-50-4	June 15, 2001
α -Methyl styrene	female	98-83-9	July 29, 2011
Methyltestosterone	developmental	58-18-4	April 1, 1990
Metiram	developmental	9006-42-2	March 30, 1999
Midazolam hydrochloride	developmental	59467-96-8	July 1, 1990
Minocycline hydrochloride (internal use)	developmental	13614-98-7	January 1, 1992
Misoprostol	developmental	59122-46-2	April 1, 1990
Mitoxantrone hydrochloride	developmental	70476-82-3	July 1, 1990
Molinate	developmental, female, male	2212-67-1	December 11, 2009
Myclobutanil	developmental, male	88671-89-0	April 16, 1999
Nabam	developmental	142-59-6	March 30, 1999
Nafarelin acetate	developmental	86220-42-0	April 1, 1990
Neomycin sulfate (internal use)	developmental	1405-10-3	October 1, 1992
Netilmicin sulfate	developmental	56391-57-2	July 1, 1990
Nickel carbonyl	developmental	13463-39-3	September 1, 1996
Nicotine	developmental	54-11-5	April 1, 1990
Nifedipine	developmental, female, male	21829-25-4	January 29, 1999
Nimodipine	developmental	66085-59-4	April 24, 2001
Nitrapyrin	developmental	1929-82-4	March 30, 1999
Nitrobenzene	male	98-95-3	March 30, 2010
Nitrofurantoin	male	67-20-9	April 1, 1991
Nitrogen mustard (Mechlorethamine)	developmental	51-75-2	January 1, 1989
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	developmental	55-86-7	July 1, 1990
Nitrous oxide	developmental	10024-97-2	August 1, 2008
Norethisterone (Norethindrone)	developmental	68-22-4	April 1, 1990
Norethisterone acetate (Norethindrone acetate)	developmental	51-98-9	October 1, 1991
Norethisterone (Norethindrone) /Ethinyl estradiol	developmental	68-22-4/ 57-63-6	April 1, 1990
Norethisterone (Norethindrone)/Mestranol	developmental	68-22-4/ 72-33-3	April 1, 1990
Norgestrel	developmental	6533-00-2	April 1, 1990
Oxadiazon	developmental	19666-30-9	May 15, 1998
Oxazepam	developmental	604-75-1	October 1, 1992
p,p'-Oxybis(benzenesulfonyl hydrazide)	developmental	80-51-3	August 7, 2009
Oxydemeton methyl	female, male	301-12-2	November 6, 1998
Oxymetholone	developmental	434-07-1	May 1, 1997
Oxytetracycline (internal use)	developmental	79-57-2	January 1, 1991
Oxytetracycline hydrochloride (internal use)	developmental	2058-46-0	October 1, 1991
Oxythioquinox (Chinomethionat)	developmental	2439-01-2	November 6, 1998
Paclitaxel	developmental, female, male	33069-62-4	August 26, 1997
Paramethadione	developmental	115-67-3	July 1, 1990

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Penicillamine	developmental	52-67-5	January 1, 1991
Pentobarbital sodium	developmental	57-33-0	July 1, 1990
Pentostatin	developmental	53910-25-1	September 1, 1996
Phenacemide	developmental	63-98-9	July 1, 1990
Phenprocoumon	developmental	435-97-2	October 1, 1992
Phenyl glycidyl ether	male	122-60-1	August 7, 2009
Phenylphosphine	developmental	638-21-1	August 7, 2009
Pimozide	developmental, female	2062-78-4	August 20, 1999
Pipobroman	developmental	54-91-1	July 1, 1990
Plicamycin	developmental	18378-89-7	April 1, 1990
Polychlorinated biphenyls	developmental	—	January 1, 1991
Potassium dimethyldithiocarbamate	developmental	128-03-0	March 30 1999
Pravastatin sodium	developmental	81131-70-6	March 3, 2000
Prednisolone sodium phosphate	developmental	125-02-0	August 20, 1999
Procarbazine hydrochloride	developmental	366-70-1	July 1, 1990
Propargite	developmental	2312-35-8	June 15, 1999
Propylthiouracil	developmental	51-52-5	July 1, 1990
Pyrimethamine	developmental	58-14-0	January 29, 1999
Quazepam	developmental	36735-22-5	August 26, 1997
Quizalofop-ethyl	male	76578-14-8	December 24, 1999
Resmethrin	developmental	10453-86-8	November 6, 1998
Retinol/retinyl esters, when in daily dosages in excess of 10,000 IU, or 3,000 retinol equivalents. (NOTE: Retinol/retinyl esters are required and essential for maintenance of normal reproductive function. The recommended daily level during pregnancy is 8,000 IU.)	developmental	—	July 1, 1989
Ribavirin	developmental male	36791-04-5 36791-04-5	April 1, 1990 February 27, 2001
Rifampin	developmental, female	13292-46-1	February 27, 2001
Secobarbital sodium	developmental	309-43-3	October 1, 1992
Sermorelin acetate	developmental	—	August 20, 1999
Sodium dimethyldithiocarbamate	developmental	128-04-1	March 30 1999
Sodium fluoroacetate	male	62-74-8	November 6, 1998
Streptomycin sulfate	developmental	3810-74-0	January 1, 1991
Streptozocin (streptozotocin)	developmental, female, male	18883-66-4	August 20, 1999
Sulfasalazine (Salicylazosulfapyridine)	male	599-79-1	January 29, 1999
Sulfur dioxide	developmental	7446-09-5	July 29, 2011
Sulindac	developmental, female	38194-50-2	January 29, 1999
Tamoxifen citrate	developmental	54965-24-1	July 1, 1990
Temazepam	developmental	846-50-4	April 1, 1990
Teniposide	developmental	29767-20-2	September 1, 1996
Terbacil	developmental	5902-51-2	May 18, 1999
Testosterone cypionate	developmental	58-20-8	October 1, 1991
Testosterone enanthate	developmental	315-37-7	April 1, 1990
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	developmental	1746-01-6	April 1, 1991
Tetracycline (internal use)	developmental	60-54-8	October 1, 1991
Tetracyclines (internal use)	developmental	—	October 1, 1992

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Tetracycline hydrochloride (internal use)	developmental	64-75-5	January 1, 1991
Thalidomide	developmental	50-35-1	July 1, 1987
Thioguanine	developmental	154-42-7	July 1, 1990
Thiophanate methyl	female, male	23564-05-8	May 18, 1999
Tobacco smoke (primary)	developmental, female, male	—	April 1, 1988
Tobramycin sulfate	developmental	49842-07-1	July 1, 1990
Toluene	developmental female	108-88-3	January 1, 1991 August 7, 2009
Triadimefon	developmental, female, male	43121-43-3	March 30, 1999
Triazolam	developmental	28911-01-5	April 1, 1990
Tributyltin methacrylate	developmental	2155-70-6	December 1, 1999
Trientine hydrochloride	developmental	38260-01-4	February 27, 2001
Triforine	developmental	26644-46-2	June 18, 1999
1,3,5-Triglycidyl-s-triazinetriene	male	2451-62-9	August 7, 2009
Trilostane	developmental	13647-35-3	April 1, 1990
Trimethadione	developmental	127-48-0	January 1, 1991
Trimetrexate glucuronate	developmental	82952-64-5	August 26, 1997
Triphenyltin hydroxide	developmental	76-87-9	March 18, 2002
Uracil mustard	developmental, female, male	66-75-1	January 1, 199
Urethane	developmental	51-79-6	October 1, 1994
Urofollitropin	developmental	97048-13-0	April 1, 1990
Valproate (Valproic acid)	developmental	99-66-1	July 1, 1987
Vinblastine sulfate	developmental	143-67-9	July 1, 1990
Vinclozolin	developmental	50471-44-8	May 15, 1998
Vincristine sulfate	developmental	2068-78-2	July 1, 1990
4-Vinylcyclohexene	female, male	100-40-03	August 7, 2009
Vinyl cyclohexene dioxide (4-Vinyl-1-cyclohexene diepoxide)	female, male	106-87-6	August 1, 2008
Warfarin	developmental	81-81-2	July 1, 1987
Zileuton	developmental, female	111406-87-2	December 22, 2000

Date: July 20, 2012

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

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

NOTICE TO INTERESTED PARTIES July 20, 2012

CHEMICALS LISTED EFFECTIVE July 24, 2012 AS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER

Effective **July 24, 2012**, the Office of Environmental Health Hazard Assessment (OEHHA) is adding two chemicals, *isopyrazam* (CAS No. 881685-58-1) and

3,3',4,4'-tetrachloroazobenzene (CAS No. 14047-09-7), to the list of chemicals known to the State to cause cancer for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as Proposition 65¹).

The criteria used by OEHHA for the listing of chemicals under the “authoritative bodies” mechanism can be found in Title 27, Cal. Code of Regs., section 25306. The listing of *isopyrazam* is based on formal identification by an authoritative body², the U. S. Environmental Protection Agency, that the chemical causes cancer. The listing of *3,3',4,4'-tetrachloroazobenzene* is based on formal identification by an authoritative body, the

¹ Health and Safety Code section 25249.5 et seq.

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

National Toxicology Program, that the chemical causes cancer.

The documentation supporting OEHHA's determination that the criteria for administrative listing have been satisfied for the chemicals *isopyrazam* and *3,3',4,4'-tetrachloroazobenzene* is included in the Notice of Intent to List these chemicals published in the May 25, 2012 issue of the California Regulatory Notice Register (Register 2012, No. 21-Z).

A complete, updated chemical list is published in this issue of the *California Regulatory Notice Register* and is available on the OEHHA website at www.oehha.ca.gov.

In summary, *isopyrazam* and *3,3',4,4'-tetrachloroazobenzene* are being listed under Proposition 65 as known to the State to cause cancer.

**PRIORITY REVIEW OF
REGULATIONS
(Pursuant to Gov. Code
sec. 11349.7)**

STATE ALLOCATION BOARD

The Office of Administrative Law (OAL) will review any written comments submitted to it within 30 days of the publication of this Determination on Request for Priority Review and Order to Show Cause in the California Regulatory Notice Register pursuant to Government Code section 11349.7(c). Written comments must, therefore, be received by the OAL **no later than 5:00 p.m., August 20, 2012**. Written comments may be submitted as follows: Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814 or by facsimile transmission to 916-323-6826. Comments should be submitted to the attention of: Dale Mentink, Senior Staff Counsel. Comments may also be submitted by email to: dmentink@oal.ca.gov.

Office of Administrative Law's Determination on Request for Priority Review and Order to Show Cause Concerning State Allocation Board's Form 50-04 Application for Funding, Item 22, aka "60% Commensurate Regulation," Incorporated by Reference in Title 2, section 1859.2

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW**

**In re:
State Allocation Board
Title 2, California Code of Regulations
Sections 1859.2 and 1859.21**

**DETERMINATION ON
REQUEST FOR PRIORITY REVIEW
AND ORDER TO SHOW CAUSE
Government Code Section 11349.7**

OAL File No. Priority Review 2012-1

SUMMARY OF DETERMINATION

On April 17, 2012, at the request of the Senate Rules Committee, the Honorable Darrell Steinberg, Chair, the Office of Administrative Law (OAL) initiated a priority review pursuant to Government Code section 11349.7 and Senate-Assembly Joint Rule 40.1.

The Senate Rules Committee requested review of Item 22 of State Allocation Board (SAB) Form 50-04, *Application for Funding*, which is incorporated by reference into the California Code of Regulations (CCR) at Title 2 CCR section 1859.2 and was previously incorporated by reference at Title 2 CCR section 1859.21. Item 22 of the SAB Form 50-04 is commonly known as the "60% commensurate rule" (hereafter "60% rule"). OAL published notice of the priority review in the California Regulatory Notice Register on April 27, 2012, and completed the priority review within the required 90-day period.

In addition to the Senate Rules Committee's request for this priority review, two public comment letters were received and considered by OAL as part of the priority review. OAL also reviewed all 1999 rulemaking file records by which the 60% rule was adopted as an emergency and/or final regulation.

OAL finds that the 60% rule meets the Authority, Clarity, Consistency, Reference, and Nonduplication standards of Government Code section 11349.1.

OAL finds that the Necessity standard of sections 11349(a) and 11349.1(a)(1) is met, in as much as the rulemaking files contained substantial evidence of the need for a rule which substantiates that a commensurate amount of work is contained in the project plans and specifications as compared to the number of per pupil grants requested. OAL finds, however, that the Necessity standard is not met with respect to the specifics of the 60% rule itself, because the rulemaking files failed to contain substantial evidence of the need for the specification of a 60 percent, as opposed to some other percentage, minimum cost estimate for the work described in the plans and specifications in relationship to the total grant amount plus the school district's matching share. OAL also found that the rulemaking files failed to contain substantial evidence of the need to specifically exclude certain items from the cost estimate.

Although OAL finds that the 60% rule meets the Reference standard of Government Code sections 11349(e) and 11349.1(a)(5), in that Reference was not found to

be wholly lacking, OAL did find that Reference was insufficiently specific and complete.

The reasons for OAL’s determinations regarding the six Government Code section 11349.1 standards, and information specific to the deficiencies noted above, are discussed below under DETERMINATION ON REQUEST FOR PRIORITY REVIEW.

STATUTORY BACKGROUND

The 60% rule is a regulatory product of Senate Bill 50 (Greene) Chapter 407, Statutes of 1998. SB 50 added Chapter 12.5 (Leroy Greene School Facilities Act of 1998, Education Code section 17070.10 et seq.) to Part 10 of Division 1 of the Education Code. SB 50 also added Part 68 (Class Size Reduction Kindergarten–University Public Education Facilities Bond Act of 1998) of Division 14 of the Education Code. The Class Size Reduction Bond Act appropriates the approximately 6.7 billion dollars in Proposition 1A funds approved by the voters on November 3, 1998 to finance the Leroy Greene School Facilities Act of 1998. Education Code sections 100410 and 100415. SB 50 is referred to in this Determination on Request for Priority Review and Order to Show Cause as the “School Facilities Program” or “SFP.”

REGULATORY HISTORY

The 60% rule was added to the SAB Form 50–04 in a series of rulemaking actions. It was first proposed to be added to the Form 50–04 on May 14, 1999, in the context of Modernization, as part of the process of making the emergency SFP regulations permanent regulations. See OAL file no. 99–0826–01C. The 60% rule became a permanent regulation for Modernization projects on October 8, 1999. The 60% rule was added to the Form 50–04 as an emergency regulation, in the context of New Construction, on July 12, 1999. See OAL file no. 99–0701–01E. The 60% rule became effective as a permanent regulation in the context of New Construction on December 22, 1999. See OAL file no. 99–1105–03C.

Currently, the 60% rule is substantially as it appeared in 1999, at least with respect to the requirement that a school facilities construction or modernization project architect or design professional must certify that the cost of the work represented in the plans and specifications, excluding certain items, be at least 60% of the total state grant amount plus the school district’s matching share contribution. In 1999, Item 22 did not include interim housing costs in the Modernization cost estimate but did require the project architect or design professional to certify the number of classrooms demolished and not replaced and the number of additional classrooms constructed in the plans and specifications.

Certain other aspects of the current 60% rule did not exist in 1999, such as the ORG (overcrowding relief grant) of 2006, in the context of New Construction, and the Charter School Facility Program Rehabilitation Grant of 2002, in the context of Modernization.

DETERMINATION ON REQUEST FOR PRIORITY REVIEW

A. INTRODUCTION.

Pursuant to Government Code section 11349.7, OAL must review a regulation to determine whether it meets the six standards (Necessity, Authority, Clarity, Consistency, Reference, and Nonduplication) set forth in Government Code section 11349.1. If OAL determines that the regulation does not meet the standards of section 11349.1, it must order the adopting agency to show cause why the regulation should not be repealed. In the case of a regulation for which there is no or inadequate information relating to its Necessity, OAL must specify in its order the information which OAL requires to make a determination. Government Code section 11349.7(a).

B. NECESSITY STANDARD.

(1) Legal Standards:

Government Code section 11349(a) provides:

“Necessity” means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion.

Government Code section 11346.2(b)(1) provides:

Every agency subject to this chapter shall prepare. . . (b) An initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. This statement of reasons shall include, but not be limited to, all of the following: (1) A statement of the specific purpose of each adoption, amendment, or repeal, the problem the agency intends to address, and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute.

Title 1 CCR section 10 provides:

(a) In reviewing the rulemaking record for compliance with subsection (b), OAL shall not dispute the decision of a rulemaking agency to

adopt a particular regulatory provision when the information provided as required by subsection (b) is also adequate to support one or more alternative conclusions.

(b) In order to meet the “necessity” standard of Government Code section 11349.1, the record of the rulemaking proceeding shall include:

(1) A statement of the specific purpose of each adoption, amendment, or repeal; and

(2) information explaining why each provision of the adopted regulation is required to carry out the described purpose of the provision. Such information shall include, but is not limited to, facts, studies, or expert opinion. When the explanation is based upon policies, conclusions, speculation, or conjecture, the rulemaking record must include, in addition, supporting facts, studies, expert opinion, or other information. An “expert” within the meaning of this section is a person who possesses special skill or knowledge by reason of study or experience which is relevant to the regulation in question.

(2) Modernization.

In the context of Modernization, on page 38 of the Final Statement of Reasons, in OAL file number 99–0826–01C, SAB stated:

...The cost estimate requirement is necessary from a program integrity standpoint to substantiate that a commensurate amount of work is in the plans and specifications as compared to the number of per pupil grants requested.

(3) New Construction.

In the context of New Construction, SAB’s Finding of Emergency in OAL file number 99–0701–01E, as well as its Initial Statement of Reasons and Final Statement of Reasons in OAL file number 99–1105–03C, contained the following information:

Regulation 1859.103 provides that a district may expend the savings not needed for a project on other high priority, capital facility needs of the district. Several situations have surfaced that allow districts to receive an excessive amount of project savings, thereby diverting significant amounts of Proposition 1A funding for purposes not otherwise eligible under the SFP.

...The SAB instructed OPSC to file this amendment [the 60% rule re New Construction] as an emergency to immediately prevent districts from circumventing the intent of the law in regard to grant apportionments and the use of project savings.

Example 1: Pupil grants are calculated to provide classrooms plus all necessary support facilities for

a specific number of pupils. Plans for some projects are being submitted that do not provide the number of teaching stations for the pupils that justified the grants or do not include support facilities. By eliminating these facilities a large amount of artificial savings is created. Some districts are proposing to use these project savings on items such as swimming pools, enhanced athletic field development, enhanced non-teaching station facilities and other facilities or development not eligible under the School Facility Program. The SAB is not opposed to using savings for these items, but not at the expense of providing adequate teaching stations and support facilities for the pupils who generated the grants. The Application for Funding, Form SAB 50–04, already requires the applicant district to identify the grade level and number of classrooms in the project in sections two and three, respectively. Adding the 60% requirement will ensure that adequate facilities are constructed with the grant amount provided by the state and the district’s matching share.

Example 2: A school district receives a new construction grant to provide classrooms for 600 elementary pupils which requires that 24 teaching stations be provided [600/25] within a grant amount of \$3,120,000. The district is currently leasing a large number of portable classrooms and proposes to buy them out at a cost of \$40,000 each, which equals \$960,000 [24 x \$40,000]. If this were allowed under current regulations, the district would realize project savings of \$2,160,000. The OPSC does not believe that it was the intent of the law to allow a windfall of savings such as this. In this example, 60% of the grant amount is \$1,872,000.

(4) The rulemaking records contain substantial evidence of the necessity for a rule in the nature of the 60% rule.

Modernization project grants are computed by multiplying numbers of pupils housed in older structures and portables by fixed amounts based on grade levels and require removal of older portables and modernization in ways which enhance the achievement of educational purposes. Education Code sections 17070.15, 17074.10, and 17074.25.

New Construction project grants are computed based on statutory assumptions regarding the costs of construction of teaching stations (spaces constructed or reconstructed to serve as areas in which to provide instruction) for different grade levels and are a function of the number of un-housed pupils under current or

projected enrollments. Education Code sections 17071.10, 17071.25, 17071.75, and 17072.10.

The purpose of the SFP is to provide funds for the building and modernizing of classroom capacity for current or projected numbers of students who are un-housed or housed in older structures and portables. The 60% rule requires architect certification that a minimum percentage of the total grant and district matching share is needed for the costs of the work described in the plans and specifications. The uses of new construction and modernization funds are governed by Education Code sections 17070.15, 17072.35 and 17074.25 and primarily consist of the construction of classroom and related facilities for unhoused pupils or the modernization of classroom and related facilities to extend the useful life or enhance the physical environment of the school and the ability of a structure to achieve educational purposes. OAL finds that SAB's determination, that a rule such as the 60% rule is necessary, is not an unreasonable interpretation and implementation of the SFP statutes and is one means of implementing the SFP statutes to curtail what the SAB described as the generation of artificial project savings (New Construction — OAL file numbers 99-0701-01E and 99-1105-03C) and the need to ensure program integrity by substantiating that a commensurate amount of work is in the plans and specifications as compared to the number of per pupil grants requested (Modernization — OAL file number 99-0826-01 C).

(5) The rulemaking records contain inadequate information relating to the Necessity for selecting 60% as the percentage of the total funds needed for the work described in the plans and specifications and for excluding from the cost estimate those items which the 60% rule excludes.

The rulemaking files did not contain an explanation of the need for a minimum of 60%, as opposed to some other percentage, of the total grant amount and district matching share to be required for the work described in the plans and specifications. In addition, the rulemaking files did not contain an explanation of the need to exclude those items which are excluded from the cost estimate. As described in the Order to Show Cause below, SAB must provide OAL with this information in any written response it issues to OAL's Order to Show Cause pursuant to Government Code section 11349.7(b).

(6) OAL did not find the SAB's description of the necessity for the 60% rule was based on the receipt of inaccurate information.

The Senate Rules Committee's request for this priority review and the entities which submitted comments during the priority review public comment period assert

that in adopting the 60% rule, the SAB may have received inaccurate information and that the same possibly inaccurate information was provided to OAL for its review of the regulation in 1999. The comments of Richard Gonzalez & Associates, Inc. subsume those of the Los Angeles Unified School District (LAUSD) and the Senate Rules Committee and provide the most complete set of examples of purportedly inaccurate information provided to the SAB and, in turn, to OAL. OAL has considered these assertions under the category of the Necessity standard of section 11349.1(a), because, presumably, the commenters believe SAB would not have adopted the 60% rule but for its receipt of inaccurate information. Both the Richard Gonzalez & Associates, Inc., and LAUSD written comments conclude by citing an example of a purportedly inaccurate statement made to the SAB and assert that the statement "played a major role in the adoption of the regulation by the SAB." The assertions regarding inaccurate information provided to the SAB and, ultimately, to OAL, are set forth in full below:

The SAB, in adopting this regulation, did rely upon inaccurate information.

a. The FINAL STATEMENT OF REASONS, Need for the Regulation, contains a number of inaccurate statements.

i. The first inaccurate statement is: "Plans for some projects are being submitted that do not provide the number of teaching stations for the pupils that justified the grants, or do not include support facilities." The SAB 50-04 specifically prohibits a district from making an application for a new construction project with more pupil grants than classroom capacity, except under very limited circumstances that are specified in law and regulation (as stated by the OPSC in the same paragraph); therefore the statement in the Final Statement of Reasons is in fact inaccurate. In addition, the law and regulations require the Department of Education to review and approve plans for new school projects, and they would not approve a set of plans for a school without specifically addressing the need for adequate support facilities.

The statement quoted above from the SAB's Final Statement of Reasons is from a larger paragraph. It reads:

Example 1: Pupil grants are calculated to provide classrooms plus all necessary support facilities for a specific number of pupils. Plans for some projects are being submitted that do not provide the number of teaching stations for the pupils that justified the grants or do not include support facilities. By eliminating these facilities a large

amount of artificial savings is created. Some districts are proposing to use these project savings on items such as swimming pools, enhanced athletic field development, enhanced non-teaching station facilities and other facilities or development not eligible under the School Facility Program. The SAB is not opposed to using savings for these items, but not at the expense of providing adequate teaching stations and support facilities for the pupils who generated the grants. The Application for Funding, Form SAB 50-04, already requires the applicant district to identify the grade level and number of classrooms in the project in sections two and three, respectively. Adding the 60% requirement will ensure that adequate facilities are constructed with the grant amount provided by the state and the district's matching share.

To the extent the commenter's comment is a denial that plans are being submitted that do not provide the number of teaching stations for the pupils that justified the grants, it is critical to note that, pursuant to Government Code section 11349.1(a), OAL's reviews of the six Government Code section 11349.1 standards is restricted to the regulation and the record of the rulemaking proceeding. Thus, OAL is prohibited from going outside of the rulemaking record provided to it by the state agency. Because of this restriction, it is important that members of the public submit comments during the public comment period concerning, among other things, any factual matters relevant to the necessity of a proposed regulation. These public comments become part of the record of the rulemaking proceeding which is submitted to the OAL for its review and must be summarized and responded to by the state agency in its Final Statement of Reasons, pursuant to Government Code section 11346.9, which is also added to the record of the proceeding. The current assertion, if any, that plans are not being submitted that do not provide the number of teaching stations for the pupils who justified the grants was not submitted to the SAB during the public comment period in 1999 and is not part of the rulemaking record for the 60% rule.

To the extent the commenter's comment asserts that it is not possible for districts to submit plans that do not provide the number of teaching stations for the pupils that justified the grants because the Form 50-04 prohibits an application for a new construction project with more pupil grants than classroom capacity (as stated by OPSC in the same paragraph), OAL considered the statement taken from Example 1 in the context of the full paragraph from which it is taken. In Example 1, SAB is stating that the Form 50-04 already requires that a district identify the grade level and number of classrooms in a project, i.e., that SAB already receives those

numbers in Sections 2 and 3 of the Form 50-04, but that it lacks a standard to apply to the numbers to determine whether artificial savings are being created. SAB is not saying that the problem is that districts are failing to identify the number of classrooms on the Form 50-04. The problem, as SAB states in the second sentence of the paragraph, is that plans for some projects are being submitted that do not provide the number of classrooms for the pupils that justified the grants or do not include support facilities. The last sentence of Example 1 describes SAB's proposed solution of having the architect review the plans and specifications and certify that the construction will cost at least 60% of the total grant and district matching share, presumably to ensure relation back to the eligibility numbers on which the grant was based. OAL understands the SAB to have determined that the plans and specifications together with the Form 50-04, absent the 60% rule, provide no standard for determining whether the facilities proposed in the plans and specifications fall below a certain cost threshold in relationship to the numbers of pupils identified as needing classroom construction (or modernization), and that the 60% rule provides the necessary threshold.

ii. The second inaccurate statement is: "Some districts are proposing to use these project savings on items such as swimming pools, enhanced athletic field development, enhanced non-teaching station facilities, and other facilities or development not eligible under the SFP." As previously stated, the SAB has not established any limitation on the type of capital outlay projects that are to be deemed ineligible; therefore, this statement is completely misleading and inaccurate. In addition to the facilities normally funded by the SFP, the language in the law contemplated that savings would be used to fund those facilities that would not normally be included through the SFP, such as a second gym, pools or administrative facilities. The language in the law left it up to the school district to define a higher priority capital facility outlay. The only requirement in law is that the funds are used for capital outlay purposes.

The transcript of the meeting at which the SAB adopted this regulation indicates that the SAB was advised by the Assistant Executive Officer of the SAB (the board's advisory employee) that districts were using savings to fund capital facilities not approvable under the SFP program. This advisement was directly in contradiction to the law.

The essence of these assertions is that the SAB was told by the Assistant Executive Officer, or said in its Final Statement of Reasons, that savings from the SFP

program cannot be used for swimming pools and athletic fields, etc. The commenter acknowledges that, despite the absence of a limitation on the type of projects that are to be deemed [eligible], there are facilities not normally funded by the SFP and that those facilities are funded, if at all, with savings. The SAB's Final Statement of Reasons and the Assistant Executive Officer are not making what would be the inaccurate statement that savings cannot be used to fund swimming pools and athletic fields, etc. The SAB plays no role in approving or disapproving uses by districts of project savings. The Final Statement of Reasons and Assistant Executive Officer are saying that swimming pools and athletic fields, etc., are capital outlay projects that are not eligible under the SFP or approvable under the SFP. SAB would not, apparently, approve, as part of a proposed construction or modernization project, the construction of a swimming pool under the SFP program with SFP funds awarded to a district on the basis of the pupil-based construction and modernization formulas described above if it meant the number of classrooms and support facilities calculated as needing to be constructed or modernized were not produced. At the same time, SAB would not, apparently, object to the construction of a swimming pool with money saved from an SFP project that had produced the classrooms and support facilities for the numbers of pupils used in the pupil-based construction and modernization formulas described above.

Even assuming that the SAB was given inaccurate information to the effect that savings cannot be used for swimming pools and athletic fields, etc., the SAB, apparently, never considered this information to be true. In the next sentence after the sentence quoted by the commenter, SAB goes on to state: "The SAB is not opposed to using savings for these items, but not at the expense of providing adequate teaching stations and support facilities for the pupils who generated the grants." Even if the suspect information is characterized as misleading, SAB was apparently not misled. If SAB was not misled, purportedly misleading information could not have played a major role in the adoption of the regulation by SAB. OAL finds that SAB determined the 60% rule was necessary to curtail the generation of artificial savings and to ensure provision of an adequate number of teaching stations and support facilities for the pupils who generated the grants.

C. AUTHORITY STANDARD.

(1) Legal Standards:

Government Code section 11349(b) provides:
 "Authority" means the provision of law which permits or obligates the agency to adopt, amend, or repeal a regulation.

Title 1 CCR section 14(a) provides:

"Authority" shall be presumed to exist only if an agency cites in its "authority" note proposed for printing in the California Code of Regulations:

- (1) a California constitutional or statutory provision which expressly permits or obligates the agency to adopt, amend, or repeal the regulation; or
- (2) a California constitutional or statutory provision that grants a power to the agency which impliedly permits or obligates the agency to adopt, amend, or repeal the regulation in order to achieve the purpose for which the power was granted.

(2) Analysis.

OAL reviewed the Authority citations provided for Title 2 CCR section 1859.21 (which incorporated by reference and required the use of the SAB Form 50-04 in 1999) and for Title 2 CCR section 1859.2 (which currently incorporates by reference the SAB Form 50-04). OAL also reviewed the Authority citation provided in the Finding of Emergency (OAL file no. 99-0701-01E) and Notice of Proposed Action (OAL file no. 99-1105-03C) for the addition of the 60% rule in the context of New Construction. All files and section 1859.21 provide Education Code section 17070.35 as an Authority citation. In addition, Title 2 CCR section 1859.2 provides Education Code section 17078.64 as an Authority citation.

Education Code section 17070.35 provides:

In addition to all other powers and duties as are granted to the board by this chapter. . . , the board shall do all of the following:

- (a) Adopt rules and regulations, pursuant to [the Administrative Procedure Act], for the administration of this chapter. . . .

By "this chapter," section 17070.35 means Chapter 12.5, the Leroy F. Greene School Facilities Act of 1998.

Education Code section 17078.64 is authority for the SAB, in consultation with the California School Finance Authority, to adopt regulations to implement Article 12 of Chapter 12.5. Article 12 of Chapter 12.5 governs the administration of the SFP for charter schools.

OAL has determined that Education Code section 17070.35 (as well as section 17078.64) satisfies the Authority standard for the 60% rule (in 1999 and currently), because it authorizes the SAB to adopt regulations to administer the SFP for the public schools. The 60% rule is not outside the scope of the regulatory power conferred on SAB and is an element of administering this program for the reasons discussed above under the Necessity standard.

D. CLARITY STANDARD.

(1) Legal standards:

Government Code section 11349(c) provides:

“Clarity” means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

Title 1 CCR section 16 provides:

(a) A regulation shall be presumed not to comply with the “clarity” standard if any of the following conditions exists:

(1) the regulation can, on its face, be reasonably and logically interpreted to have more than one meaning; or

(2) the language of the regulation conflicts with the agency’s description of the effect of the regulation; or

(3) the regulation uses terms which do not have meanings generally familiar to those “directly affected” by the regulation, and those terms are defined neither in the regulation nor in the governing statute; or

(4) the regulation uses language incorrectly. This includes, but is not limited to, incorrect spelling, grammar or punctuation; or

(5) the regulation presents information in a format that is not readily understandable by persons “directly affected;” or

(6) the regulation does not use citation styles which clearly identify published material cited in the regulation.

(b) Persons shall be presumed to be “directly affected” if they:

(1) are legally required to comply with the regulation; or

(2) are legally required to enforce the regulation; or

(3) derive from the enforcement of the regulation a benefit that is not common to the public in general; or

(4) incur from the enforcement of the regulation a detriment that is not common to the public in general.

(2) Analysis:

OAL determined that the 60% rule meets the APA Clarity standard, because it does not suffer from any of the clarity deficiencies listed in Title 1 CCR section 16(a) and is easily understood by persons directly affected by it. The use of the terms “ORG” [Overcrowding Relief Grant], “High Performance Base Incentive Grant,” “deferred items,” and “interim housing” (in the context of Modernization), which are not defined in Item 22 or elsewhere in the Form 50–04, is not unclear to school districts participating in the program. These terms are defined elsewhere (see Ed. Code, secs. 17079 et seq. and 101012 and Title 2 CCR sec. 1859.2) or are

common terms in school facility construction or modernization contexts.

OAL determined that the 60% rule does not conflict with the SAB’s description of the effect of the 60% rule. If it was true that the SAB and SAB staff described the effect of the 60% rule as prohibiting project savings from being used for swimming pools and athletic fields, etc., the 60% rule itself might be argued to conflict with the SAB’s description of its effect, because the 60% rule says nothing about how savings may be used. However, SAB specifically states that it is not opposed to districts using savings for these items (swimming pools and athletic fields, etc.). The resulting 60% rule, which does not prohibit any uses of project savings, is consistent with the SAB’s statement that it is not opposed to districts using savings for items such as swimming pools and athletic fields, etc. SAB’s and SAB’s staff’s descriptions of the effect of the 60% rule were not dictation of the uses of project savings but rather were to prevent the generation of “excessive,” “artificial,” or “windfall” savings and to substantiate that a commensurate amount of work is in the plans and specifications as compared to the number of per pupil grants requested.

E. CONSISTENCY STANDARD.

(1) Legal standards:

Government Code section 11349(d) provides:

“Consistency” means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law.

Government Code section 11342.2 provides:

Whenever by the express or implied terms of any statute a state agency has authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation adopted is valid or effective unless consistent and not in conflict with the statute and reasonably necessary to effectuate the purpose of the statute.

The request for priority review and the commenters in this matter collectively assert that the 60% rule is inconsistent with Education Code sections 17070.63(c) and 17072.20(a).

(2) OAL finds that the 60% rule is not inconsistent with Education Code section 17070.63(c).

Education Code section 17070.63(c) provides: “Any savings achieved by the district’s efficient and prudent expenditure of these funds shall be retained by the district in the county fund for expenditure by the district for other high priority capital outlay purposes.”

The 60% rule does not specify, address, or proscribe how any project savings may be used by a school dis-

trict. The 60% rule does not mention savings. The request for this priority review and the commenters assert that the SAB found, and was advised by its staff, that the 60% rule was needed to prevent savings from being used for certain items, but the SAB stated that it was not opposed to savings being used for these items. Nothing in the 60% rule dictates how project savings may be spent. Education Code section 17070.63(c) does not guarantee that a school district will realize any savings at all or any minimum amount of savings on a project. The 60% rule impacts savings, if at all, only to the extent that it reduces the amount of savings a school district can realize from a project. That effect of the 60% rule does not conflict with the operation of Education Code section 17070.63(c) on “any savings” achieved by the district’s efficient and prudent expenditure of funds.

(3) OAL finds that the 60% rule is not inconsistent with Education Code section 17072.20(a).

Education Code section 17072.20 provides:

(a) An applicant school district that has been determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) or Article 3 (commencing with Section 17071.75) may submit at any time a request to the board for a project apportionment for all or a portion of the funding for which the school district is eligible.

(b) The application shall include, but shall not be limited to, the school district’s determination of the amount of state funding that the district is otherwise eligible for relating to site acquisition, site development, new construction, and hardship funding provided pursuant to Article 8 (commencing with Section 17075.10), if any. The amount shall be reduced by the amount of the alternative fee collected pursuant to subdivision (a) of Section 65995.7 of the Government Code if a reimbursement election or agreement pursuant to Section 65995.7 of the Government Code is not in effect.

(c) The board shall verify and adjust, as necessary, and approve the district’s application.

OAL disagrees with LAUSD’s reading of Education Code section 17072.20(a) in such a way as to create an automatic entitlement to apportionment of the full amount of a district’s grant eligibility at any time. Section 17072.20(a) describes this process as a school district’s submission of a request for funding which the SAB must verify and adjust, as necessary, and then approve. Section 17072.20(a) creates only a school district’s entitlement to submit a request for all or any por-

tion of its funding eligibility at any time; it does not deprive the SAB of all discretion or duties in the processing of requests for apportionments or reduce SAB to simply a funding conduit. Section 17072.20(b) requires certain information which must be included in the application for funding but specifies that the application shall not be limited to that information.

OAL has determined, pursuant to its analysis of the Necessity standard above, that SAB’s determination of the necessity to add the 60% rule to the *Application for Funding* was a reasonable interpretation and implementation of the SFP statutes. Rather than act inconsistently with section 17072.20, the 60% rule may implement section 17072.20(c) to the extent that verification of a minimum cost relationship between the work described in the plans and specifications and the total grant amount and district matching share is a related and reasonable function of administering the SFP pursuant to the SAB’s authority under Education Code section 17070.35.

F. REFERENCE STANDARD.

(1) Legal standards:

Government Code section 11349(e) provides:

“Reference” means the statute, court decision, or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation.

Government Code section 11346.2(a)(2) provides:

The agency shall include a notation following the express terms of each California Code of Regulations section, listing . . . the specific statutes or other provisions of law being implemented, interpreted, or made specific by that section of the [CCR].

Government Code section 11346.5(a) provides:

The notice of proposed adoption, amendment, or repeal of a regulation shall include the following: . . . (2) . . . reference to the particular code sections or other provisions of law that are being implemented, interpreted, or made specific.

(2) Assertions of the request for priority review and of commenters.

The request for priority review states: “It has come to our attention that the regulation may lack reference to law, a required standard assessed in an OAL review as set forth in Government Code section 11349.1.” The commenters made nearly identical comments on this issue. The comment of the LAUSD, for example, states:

The regulation does lack reference to law as set forth in Gov. Code 11349.1(a)(5). The original documents submitted to the SAB by the Office of Public School Construction did not contain any reference to a section of law that was being interpreted or clarified. The only reference made

was to another SAB regulation pertaining to a different program (existing school facility Modernization) and that this regulation was need for the same purpose. The two programs are completely different in purpose and eligibility. (Incidentally, there was no law referenced in the adoption of the original referenced regulation for the Modernization Program).

(3) Analysis.

(a) OAL finds that the 60% rule did not lack Reference and did contain reference to sections of law being implemented in the Modernization context by Title 2 CCR section 1859.21 in 1999 and by sections 1859.21 and 1859.2, for both Modernization and New Construction, in the current CCR.

In the context of Modernization, the 60% rule was proposed, on May 14, 1999, to be added to the regulations as part of a “15–day” public notice (pursuant to Government Code section 11346.8(c)) after SAB had published notice of its proposed action to make permanent the original SFP emergency regulations. It became permanent on October 8, 1999. SAB provided no listing of Reference citations with its 15–day notice on May 14, 1999. However, SAB did give notice of amended Title 2 CCR section 1859.21 to show the new revision date (8/99) of the amended Form 50–04 which contained the 60% rule. Section 1859.21 listed four Reference citations: Education Code sections 17070.35, 17070.63, 17072.30, and 17074.15. Of those four statutes, OAL finds that sections 17070.35 and 17070.63 are appropriate Reference citations for the 60% rule. Those statutes are summarized below.

17070.35 — the SAB shall adopt regulations for the administration of this chapter.

17070.63 — (a) funds provided are the state’s full and final contribution to the project and for eligibility for state funds represented by the number of unhoused pupils for which the district is receiving a state grant, and the district must certify that the grant plus the district’s matching share will be enough to complete the project; (b) state funds may not be counted toward the district matching share; (c) any savings due to a district’s prudent and efficient expenditure of funds may be retained by the district for any other purpose.

If the purpose of the SFP is to fund the modernization of classrooms based on the number of students housed in structures more than 25 years old and in portables more than 20 years old (see Education Code section 17074.10), then a rule which ensures that program funds, generated on the basis of those numbers of students, are used to modernize a commensurate number

of classrooms is an “administration of this chapter” for purposes of 17070.35.

The 60% rule may also be a component of implementing the requirement in section 17070.63(a) that the state grant plus the district share will be sufficient to complete the entire project, in that at least 60% of that total must be necessary to complete the project, excluding certain items.

Title 2 CCR section 1859.21 no longer incorporates the Form 50–04 by reference in the current CCR, but it does require school districts to use the form in applying for funding. Section 1859.21 continues to list, at least, Education Code sections 17070.35 and 17070.63 as Reference citations. OAL finds, therefore, that current section 1859.21 also meets the Reference standard of Government Code section 11349(e) for the reasons discussed above.

Title 2 CCR section 1859.2 currently incorporates the Form 50–04 by reference. That regulation lists, among many others, the following statutes as Reference citations: Education Code sections 17071.10, 17071.25, 17071.75, and 17072.10 (relevant to New Construction), and sections 17070.15 and 17074.10 (relevant to Modernization). Those statutes are summarized below.

17071.10 — the one–time existing school building capacity baseline determination under section 17071.25 is used for all grant determinations under the program.

17071.25 — to determine building capacity baseline, a district counts, by grade level, all existing permanent teaching stations (including allowable portable classrooms under section 17071.30) in the district. It applies the assumed capacity of each teaching station (25 pupils per teaching station for K through 6th grade, and 27 for 7th through 12th grades). It multiplies the number of teaching stations by grade level times the assumed capacities of 25 or 27 to arrive at the number of housed pupils by grade level in the district’s existing building capacity.

17071.75 — the district calculates enrollment projections for the fifth year after the year of grant application using the cohort survival enrollment projection system. It can also increase the enrollment projection by the number of pupils anticipated from dwelling units proposed under an approved subdivision map. It subtracts the number of adequately housed pupils under its existing building capacity [determined under section 17071.25] from the projected enrollment number to obtain a projected un–housed pupil number.

17072.10 — the district multiplies each un–housed elementary pupil determined under section 17071.75 times \$5,200, and each un–housed middle school pupil by \$5,500, and each un–housed high school pupil by

\$7,200 to determine a district’s maximum new construction grant eligibility.

17070.15 — defines modernization as modifications of permanent structures which are 25 years old or portables at least 20 years old in ways that enhance the ability of the structure to achieve educational purposes.

17074.10 — the district multiplies each elementary, middle school, and high school pupil housed in a school building more than 25 years old, and in a portable classroom more than 20 years old, by the following numbers, respectively: \$2,246, \$2,376, and \$3,110, to arrive at a district’s modernization grant eligibility. This statute also requires districts to use Modernization funds to place portable classrooms and to certify that the old portable will be removed from classroom use.

In light of the way school districts’ grants are calculated, i.e., for New Construction based on statutorily determined costs of construction per pupil based on grade levels and the number of teaching stations needed for un-housed pupils based on current or projected enrollments, and, for Modernization, based on multiplying numbers of pupils housed in old structures and portables by fixed amounts based on grade levels, removing old portables, and modernizing in a way that enhances the achievement of educational purposes, it is not unreasonable to conclude that the intent of the program is to allocate money to build and modernize classroom capacity to meet the demand created by currently high or increasing numbers of students. Therefore, OAL finds that a regulation which requires certification by the architect or design professional that a minimum percentage of the total grant is necessary for the costs of the work described in the plans and specifications (assuming the plans and specifications are for classroom construction or modernization as described above) implements these listed Reference Citation statutes.

(b) OAL finds that the 60% rule met the Reference standard in the New Construction context in Title 2 CCR section 1859.21 in 1999.

The Reference citations, for the addition of the 60% rule for New Construction by way of an emergency rulemaking action in July of 1999, included those Reference citations listed after the text of Title 2 CCR section 1859.21 and discussed above, i.e., Education Code sections 17070.35 and 17070.63. For the reasons discussed above, therefore, OAL finds that the 60% rule, as it related to New Construction in 1999, was supported with Reference citations.

Also, the SAB’s Finding of Emergency and its subsequent Notice of Proposed Action for the addition of the 60% rule in the context of New Construction list Educa-

tion Code section 17009.5 as a Reference citation. That statute is summarized below.

17009.5 — (a) after 11/4/98, the SAB shall only approve projects under Chapter 12.5 [the SFP Chapter]; (b)–(e) concern pre–11/4/98 approvals and the transition to the new Chapter; (f) special rules for West Contra Costa.

The listing of section 17009.5 adds an additional, albeit non-specific, Reference citation for the 60% rule for New Construction, in that Chapter 12.5 governs the SFP. By listing this statute, SAB indicates that section 1859.21, and its incorporated Form 50–04 and 60% rule, implement all the statutes of Chapter 12.5. OAL finds this Reference citation to be insufficiently specific. Government Code section 11346.2(a)(2) requires that a state agency include a notation following each regulation which lists “the specific statutes” being implemented, interpreted, or made specific by that regulation. Government Code section 11346.5(a) requires that the state agency’s notice include reference to “the particular code sections” being implemented, interpreted, or made specific.

(c) OAL finds that the Reference citations listed for the regulation which incorporates the 60% rule meet the standard for Reference in Government Code section 11349(e) but are incomplete.

OAL finds that a more complete list of Reference citations following the operative regulations (Title 2 CCR sections 1859.2 and 1859.21) could include the following:

For section 1859.2, Education Code sections 17070.35 and 17070.63 should be added as Reference citations for the reasons discussed above concerning their relevance as Reference citations for section 1859.21. Education Code section 17072.20 should be added as a Reference citation for section 1859.2 because it requires school districts to apply for funding (i.e., to use a Form 50–04). That statute also authorizes the SAB to verify a school district’s application, which could include verification of the relationship between a project’s plans and specifications and the pupil numbers used to generate the grant.

For section 1859.21, Education Code sections 17070.15, 17071.10, 17071.25, 17071.75, 17072.10, 17072.20, and 17074.10 should be added as Reference citations for the reasons discussed above regarding their appropriateness as current or recommended Reference citations for section 1859.2.

It should be noted that changes to the Authority or Reference citations listed after a regulation may be made by state agencies as changes without regulatory effect pursuant to Title 1 CCR section 100(a)(5).

G. NONDUPLICATION STANDARD.

(1) Legal standards:

Government Code section 11349(f) provides:

“Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication. This standard is not intended to prohibit state agencies from printing relevant portions of enabling legislation in regulations when the duplication is necessary to satisfy the clarity standard in paragraph (3) of subdivision (a) of Section 11349.1. This standard is intended to prevent the indiscriminate incorporation of statutory language in a regulation.

Title 1 CCR section 12 provides:

(a) A regulation shall “serve the same purpose,” as that term is used in Government Code Section 11349(f), where it either repeats or rephrases in whole or in part a state or federal statute or regulation.

Item 22 of the SAB Form 50–04 is not duplicated in any other state or federal statute or regulation. OAL finds that the 60% rule meets the nonduplication standard of Government Code section 11349(f).

ORDER TO SHOW CAUSE

Having reviewed Item 22 of the State Allocation Board Form 50–04, and the regulations in Title 2 of the California Code of Regulations which previously or currently incorporate the form by reference and/or require it to be used by school districts when applying for SFP funds, the Office of Administrative Law has determined that:

THE AFOREMENTIONED REGULATION does not meet the Necessity standard of Government Code section 11349(a) because no information relating to the Necessity for the specifics of the 60% rule, as discussed above, was contained in any rulemaking record affecting the adoption of this rule.

IT IS HEREBY ORDERED that the State Allocation Board show cause why Item 22 of the State Allocation Board Form 50–04 should not be repealed. A written response, if any, must be made to the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814, FAX (916) 323–6826, or to dmentink@oal.ca.gov Attention: Dale Mentink, Senior Staff Counsel, within sixty days of receipt of this Order

to Show Cause by the State Allocation Board pursuant to Government Code section 11349.7(a) and (b). Pursuant to Government Code section 11349.7(a), any written response by the State Allocation Board shall include specific explanations of the need for the following:

- 1) the selection of 60%, as opposed to any other percent, as the minimum percent of the total grant amount provided by the State and the district’s matching share that the work in the plans and specifications must cost in the estimate of the architect of record or design professional for the project; and
- 2) the exclusion from the cost estimate of those items excluded, i.e., planning, tests, inspection, and furniture and equipment.

IT IS FURTHER ORDERED, pursuant to Government Code section 11349.7(c), that interested parties may submit written comments in connection with this matter to this office at the above address within 30 days of the date of publication of this Determination on Request for Priority Review and Order to Show Cause in the California Regulatory Notice Register, and that this office shall notify the State Allocation Board within two working days of the receipt of information submitted by the public regarding this matter.

Date: July 10, 2012

Dale P. Mentink
Senior Staff Counsel

FOR: Debra M. Cornez
Director

Original: Lisa Silverman,
Executive Officer

Copy: Lisa Jones

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# 2012-0613-03
BOARD OF EQUALIZATION
Tax Paid Twice on Diesel Fuel/Returned Sales

These changes are without regulatory effect to the reference citations. Specifically, the changes update the reference citations to account for the 2009 repeal of Revenue and Taxation Code section 60508.4, permitting a supplier to take a credit on its tax return in lieu of claiming a refund, and the amendment of Revenue and Taxation Code section 60508 which, as amended, now permits a supplier to take a credit in lieu of claiming a refund (Stats.2009, c 545 (A.B. 1547)).

Title 18
California Code of Regulations
AMEND: 1435, 1436
Filed 07/10/2012
Agency Contact:
Richard E. Bennion (916) 445-2130

File# 2012-0613-01
BOARD OF EQUALIZATION
Feepayer; Rebuttable Presumption/Liability for Fee/Records

This action makes changes without regulatory effect by replacing the two-word phrase "fee payer" with the one-word phrase "feepayer." Use of the one-word phrase "feepayer" makes the regulations consistent with the State Board of Equalization's style manual and is grammatical in nature.

Title 18
California Code of Regulations
AMEND: 1205, 1212, 1271
Filed 07/10/2012
Agency Contact:
Richard E. Bennion (916) 445-2130

File# 2012-0613-05
BOARD OF EQUALIZATION
Tax-Paid Fuel and Ex-Tax Fuel/Returned Sales/Shipments Out-of-State

This action makes changes without regulatory effect in the authority and reference citations and a grammatical correction. Specifically, the changes update the citations to account for a statutory consolidation that occurred in 2006 (AB 3076), effective January 1, 2007, wherein Revenue and Taxation Code sections 6106.5 and 6106.8 were repealed and subsumed by section 6106. The change also amends the regulation text of section 1120 to make a grammatical correction replacing "Returns" with "Return".

Title 18
California Code of Regulations
AMEND: 1105, 1120, 1132, 1161
Filed 07/10/2012
Agency Contact:
Richard E. Bennion (916) 445-2130

File# 2012-0628-01
BOARD OF FORESTRY AND FIRE PROTECTION
State Responsibility Fee, 2012 Emergency Regulation
This rulemaking action readopts, for an additional 90 days from the date of expiration of the original emergency regulations, the Board of Forestry and Fire Protection's emergency regulations concerning fire prevention fees on habitable structures in State Responsibility Areas.

Title 14
California Code of Regulations
ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8
Filed 07/09/2012
Effective 07/24/2012
Agency Contact: George Gentry (916) 653-8031

File# 2012-0611-01
BUREAU OF AUTOMOTIVE REPAIR
AB 2289 Penalties
The Director of Consumer Affairs is adopting regulations on behalf of the Bureau of Automotive Repair concerning the penalty schedule for specific violations by licensees. The adoption of these regulatory provisions provides for an Administrative Fine Schedule and minimum/maximum fine amounts for each identified violation. The adoption also provides that the director can order an extension of time within which an order of abatement can be completed.

Title 16
California Code of Regulations
ADOPT: 3394.25, 3394.26, 3394.27
Filed 07/10/2012
Effective 07/10/2012
Agency Contact: Steven Hall (916) 255-2135

File# 2012-0625-02
DEPARTMENT OF WATER RESOURCES
Implementation of Water Code Section 12585.7
The Department of Water Resources (DWR) amended seven title 23 sections that pertain to state cost-share funding of local flood management plans. The amendments make the state cost-share funding regulations consistent with changes in the Water Code as a result of AB 1788 (Stats. 2010, ch. 579). Existing law provides for state cooperation with the federal government in the construction of specified flood control

projects, for which the state will contribute a minimum of 50% of nonfederal costs and, if a determination is made by DWR or the Central Valley Flood Protection Board that the project will advance one of five objectives, a maximum of 70% of nonfederal costs. The amendments revise the criteria and procedures for determining a local agency's level of contribution and the recommended state share of costs for a jointly sponsored flood management project. Specifically, the amendments update existing requirements for a local agency to qualify for increased state assistance, up to 70% maximum of nonfederal capital costs, based on a project's contribution to any of five objectives specified in Water Code section 12585.7.

Title 23
California Code of Regulations
AMEND: 570, 571, 572, 573, 574, 575, 576
Filed 07/05/2012
Effective 08/04/2012
Agency Contact: David Wright (916) 574-1191

File# 2012-0531-01
DEPARTMENT OF WATER RESOURCES
Agricultural Water Measurement

The Department of Water Resources adopted five sections and created a new article in title 23 of the California Code of Regulations for agricultural water measurement. The purpose of the regulatory action is to provide a range of options that agricultural water suppliers may use or implement to comply with the water measurement requirements in Water Code 10608.48(b)(1). These regulations implement amendments to the Water Code made in S.B. 7 (Stats. 2009, 7th Ex. Sess., ch. 4).

Title 23
California Code of Regulations
ADOPT: 597, 597.1, 597.2, 597.3, 597.4
Filed 07/11/2012
Effective 07/11/2012
Agency Contact: Kent Frame (916) 651-7030

File# 2012-0601-02
EMPLOYMENT TRAINING PANEL
NAICS Industry

Existing section 4416 of title 22 of the California Code of Regulations provides that the Employment Training Panel will not fund any retraining project unless it determines that trainee jobs are threatened by out-of-state competition. Subdivision (i) of section 4416 provides that an employer that finances liability for unemployment insurance benefits will be deemed to meet the out-of-state competition requirement based upon industry classifications under the 2002 North American Industrial Classification System (NAICS).

Subdivision (i)(3) of section 4416 goes on to list "Computer System Design Services" as NAICS classification "54152". However, there is no NAICS classification connected with 54152 and "Computer System Design Services" corresponds to NAICS classification 541512. The Employment Training Panel amended subdivision (i)(3) of section 4416 of title 22 of the California Code of Regulations to change "54152" to "541512" as a change without regulatory effect.

Title 22
California Code of Regulations
AMEND: 4416
Filed 07/09/2012
Agency Contact: William Stuart (916) 327-5578

File# 2012-0607-02
FRANCHISE TAX BOARD
Single-Sales Factor Formula Election

This action makes a non-substantive change to section 25128.5 in title 18 of the California Code of Regulations to correct a cross-reference.

Title 18
California Code of Regulations
AMEND: 25128.5
Filed 07/10/2012
Agency Contact: Colleen Berwick (916) 845-3306

File# 2012-0525-03
SECRETARY OF STATE
Trustworthy Electronic Documents

The Secretary of State adopted sections 22620.1 through 22620.8 of title 2 of the California Code of Regulations to establish uniform statewide standards for use in recording, storing, and reproducing permanent and nonpermanent documents or records in electronic media.

Title 2
California Code of Regulations
ADOPT: 22620.1, 22620.2, 22620.3, 22620.4, 22620.5, 22620.6, 22620.7, 22620.8
Filed 07/09/2012
Effective 08/08/2012
Agency Contact: Susan Lapsley (916) 651-7837

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN February 15, 2012 TO
July 11, 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

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 29-Z

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

- 07/09/12 ADOPT: 22620.1, 22620.2, 22620.3, 22620.4, 22620.5, 22620.6, 22620.7, 22620.8
- 06/28/12 AMEND: 649.32
- 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

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)

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
- 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

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 29-Z

03/05/12	AMEND: 10152, 10153, 10154, 10155, 10157, 10159, 10160, 10161, 10162 REPEAL: 10156, 10158, 10164	04/23/12	AMEND: 2355.1, 2355.2
03/02/12	AMEND: 8070	04/10/12	AMEND: 260.204.9
02/29/12	AMEND: 8070, 8072, 8073, 8074	04/09/12	ADOPT: 6400
02/22/12	AMEND: 10176, 10177, 10178, 10182, 10188	03/15/12	AMEND: 2690
02/16/12	AMEND: 12572	02/16/12	AMEND: 2498.6
Title 5		Title 11	
06/12/12	ADOPT: 18004 AMEND: 18000, 18001, 18002, 18003	06/26/12	AMEND: 1005, 1007, 1008
05/29/12	AMEND: 42600	06/21/12	AMEND: 1005, 1007
04/25/12	AMEND: 80028, 80301, 80442	05/09/12	ADOPT: 1019 REPEAL: 9020
04/20/12	AMEND: 18013, 18054, 18111 REPEAL: 18006, 18200, 18201, 18202, 18203, 18205, 18206, 18207	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
04/11/12	AMEND: 19816, 19816.1, 19845.2	04/03/12	AMEND: 1001, 1005, 1007, 1008, 1052, 1055
04/02/12	ADOPT: 27000, 27001, 27002, 27003, 27004, 27005, 27006, 27007, 27008, 27009	03/14/12	AMEND: 1005, 1007, 1008
04/02/12	ADOPT: 1039.2, 1039.3	Title 12	
03/26/12	AMEND: 1216.1	06/04/12	AMEND: 506
03/26/12	ADOPT: 620, 621, 622, 623, 624, 625, 626, 627	Title 13	
03/12/12	AMEND: 41000	06/29/12	AMEND: 225.00, 225.03, 225.09, 225.12, 225.15, 225.18, 225.21, 225.24, 225.35, 225.36, 225.38, 225.42, 225.45, 225.54, 225.60, 225.63, 225.66, 225.69, 225.72 REPEAL: 225.06
03/06/12	AMEND: 18600	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
03/01/12	ADOPT: 30001.5	04/10/12	ADOPT: 553.30 AMEND: 553, 553.10, 553.20, 553.50, 553.70, 553.72
02/27/12	AMEND: 42397.2, 42397.6	02/29/12	AMEND: 553
Title 7		Title 14	
07/03/12	AMEND: 219	07/09/12	ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8
Title 8		07/02/12	ADOPT: 602
05/21/12	ADOPT: 10582.5, 10770.1 AMEND: 10770	06/28/12	ADOPT: 17944.1, 17945.1, 17945.4, 17946, 17946.5, 17948.1, 17948.2 AMEND: 17943, 17944, 17946(a)-(h) renumber as 17945.2, 17946(i) renumber as 17945.3, 17946.5 renumber as 17945.5, 17947, 17948, 17948.5, 17949 REPEAL: 17942, 17944.2, 17944.5, 17945
05/07/12	AMEND: 477	06/25/12	AMEND: 791.7
05/07/12	AMEND: 2340.22	06/06/12	ADOPT: 18950, 18951, 18952, 18953, 18954, 18955, 18955.1, 18955.2, 18955.3, 18956, 18957, 18958
05/02/12	AMEND: 20363, 20365, 20393, 20400, 20402	06/01/12	REPEAL: 660
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		
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		

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 29-Z

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

Title 15

07/02/12 ADOPT: 3999.12
 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

07/10/12 ADOPT: 3394.25, 3394.26, 3394.27
 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
 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
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

07/10/12 AMEND: 1205, 1212, 1271
 07/10/12 AMEND: 1105, 1120, 1132, 1161
 07/10/12 AMEND: 1435, 1436
 07/10/12 AMEND: 25128.5
 07/03/12 AMEND: 3301
 07/03/12 AMEND: 263
 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

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

07/09/12 AMEND: 4416
 07/03/12 AMEND: 51516.1
 06/28/12 AMEND: 91477
 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)

Title 23

07/11/12 ADOPT: 597, 597.1, 597.2, 597.3, 597.4
 07/05/12 AMEND: 570, 571, 572, 573, 574, 575, 576
 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

2012 RULEMAKING CALENDAR

Special Note

In an effort to conserve resources, the 2012 Rulemaking Calendar is being incorporated by reference into this edition of the California Regulatory Notice Register (CRNR).

The 2012 Rulemaking Calendar is accessible through the following means:

- (1) CD-ROM version. (Subscribers to the Notice Register automatically receive a CD-ROM.) You may order a CD-ROM by contacting Barclays Law Publishers at 1-800-888-3600 or by visiting their website at barclaysccr.com. The cost of the CD-ROM is \$6.00. You can print those portions of the calendar you are interested in from the CD-ROM.
- (2) The Office of Administrative Law's website at www.oal.ca.gov. You can print out those portions of the calendar you are interested in from the website.
- (3) Your nearest depository library. Go to http://www.library.ca.gov/gps/gps_cal3.html for a list of California depository libraries. In addition to the CD-ROM, these libraries will have the print copy of the Calendar.
- (4) A very limited number of hard copies are available. Please contact Barclays Law Publishers (see #1 above) for more information. The cost of the printed calendar is \$30.00. Subscribers may obtain at no extra charge a hard copy of the Rulemaking Calendar, if desired.