



# California Regulatory Notice Register

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## PROPOSED ACTION ON REGULATIONS

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

*Conflict-of-Interest Code Exemption — Notice File No. Z2016-0705-09* ..... 1181

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

*Asian Citrus Psyllid Interior Quarantine — Notice File No. Z2016-0629-02* ..... 1182

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

*Asian Citrus Psyllid Interior Quarantine — Notice File No. Z2016-0629-03* ..... 1184

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

*General Industry Safety Orders (GISO) New Section 5189.1 — Notice File No. Z2016-0701-01* ..... 1187

### TITLE 14. FISH AND GAME COMMISSION

*Nongame Animals, General Provisions — Notice File No. Z2016-0705-02* ..... 1193

### TITLE 14. FISH AND GAME COMMISSION

*Upland Game Bird Special Hunt Drawing and Application — Notice File No. Z2016-0705-03* ..... 1195

### TITLE 17. CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

*Amendments to Medical and Ethical Standards — Notice File No. Z2016-0629-05* ..... 1197

### TITLE 18. BOARD OF EQUALIZATION

*Responsible Person Liability — Notice File No. Z2016-0705-01* ..... 1200

### TITLE 19. GOVERNOR’S OFFICE OF EMERGENCY SERVICES

*CalARP Article 6.5, Program 4 for Refineries — Notice File No. Z2016-0705-08* ..... 1207

### TITLE 22. DEPARTMENT OF TOXIC SUBSTANCE CONTROL

*Safer Consumer Products: Priority Products List — Notice File No. Z2016-0627-03* ..... 1212

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FISH AND WILDLIFE

*Research on California Least Terns — Brennan Mulrooney, AECOM, San Diego, California* ..... 1219

(Continued on next page)

*Time-Dated Material*

DEPARTMENT OF FISH AND WILDLIFE <i>Research on California Least Terns — Katrina Murbock, Zoological Society of San Diego</i> . . . . .	1220
---	------

**PROPOSITION 65**

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT <i>Proposition 65 Listing Notice — Triazines</i> . . . . .	1220
--	------

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT <i>Proposition 65 Updated Chemical List — July 15, 2016</i> . . . . .	1221
---	------

**DECISION NOT TO PROCEED**

CALIFORNIA HEALTH BENEFIT EXCHANGE <i>Concerning Eligibility and Enrollment Process for the Individual (Previously Published in Notice Register 2016, No. 15–Z)</i> . . . . .	1241
--	------

**RULEMAKING PETITION DECISION**

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY <i>Notice of Decision Petition from Eric C. Karsgor Concerning the Beverage Container Recycling Program</i> . . . . .	1241
---	------

**DISAPPROVAL DECISION**

DEPARTMENT OF PUBLIC HEALTH <i>Forensic Alcohol Testing Laboratories</i> . . . . .	1242
---	------

**SUMMARY OF REGULATORY ACTIONS**

Regulations filed with the Secretary of State . . . . .	1243
Sections Filed, February 3, 2016 to July 6, 2016 . . . . .	1246

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

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

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it by the Political Reform Act (the Act)<sup>1</sup> by Section 83112 of the Government Code proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **August 18, 2016**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m. on August 16, 2016.**

#### BACKGROUND/OVERVIEW

Section 87300 requires every agency to “adopt and promulgate a Conflict-of-Interest Code” (1) designating all “positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest,” and (2) identifying those interests of the designated employees that are reportable. A newly created agency is required to submit a code to its code-reviewing body for approval, “not later than six months after it comes into existence.” (Section 87303.) An agency must submit a code amendment to its code-reviewing body for approval, “within 90 days after the changed circumstances necessitating the amendments have become apparent.” (Section 87306.) Agencies must also review their existing codes biennially. (Sections 87306 and 87306.5.) The Commission is the code-reviewing body for all state agencies, other than

<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All further statutory references are to the Government Code. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations (hereafter Regulation).

agencies in the judicial branch of government, and all local government agencies with jurisdiction in more than one county (multi-county agencies). (Section 82011.)

Current Regulation 18751 provides the procedure for requesting an exemption from the Act’s requirement to adopt a conflict-of-interest code that applies to any state agency or multi-county agency whose code is subject to the Commission’s review and approval.

#### REGULATORY ACTION

##### Repeal and Adopt 2 Cal. Code Reg. Section 18751.

Proposed Regulation 18751 simplifies and clarifies existing procedural requirements for requesting an exemption from the Commission from the Act’s requirement to promulgate and adopt a conflict-of-interest code. These requirements apply to all state and multi-county agencies whose codes are subject to the Commission’s review and approval. In considering proposed Regulation 18751, the Commission may examine and revise all existing requirements and may impose any additional requirements consistent with the Commission’s regulatory authority under the Act, including but not limited to the following:

- Streamlining the existing procedure for requesting an exemption or extension including clarifying the supporting information that must be submitted with a request.
- Streamlining the existing procedure for the approval of an exemption or extension including clarifying the requirements for approving a request.

#### SCOPE

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

#### FISCAL IMPACT STATEMENT

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

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

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

#### AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend,

and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

#### REFERENCE

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

#### CONTACT

Any inquiries should be made to Brian G. Lau, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notice.html>.

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

The Department of Food and Agriculture (Department) amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid (ACP) Interior Quarantine as an emergency action which was effective on May 11, 2016. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 7, 2016.

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

#### PUBLIC HEARING

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

#### WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to [Sara.Khalid@cdfa.ca.gov](mailto:Sara.Khalid@cdfa.ca.gov). The written comment period closes at 5:00 p.m. on August 29, 2016. The Department will consider only comments received at the Department offices by that time. Submit comments to:

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

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

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

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

##### Anticipated Benefits from This Regulatory Action

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

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code that she is directed or authorized to administer or enforce.

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

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

The existing law obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal. This amend-

ment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest, which is a mandated statutory goal.

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

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

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

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

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

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

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

AMENDED TEXT

The emergency rulemaking action expanded the quarantine area for ACP in Kings County by approxi-

mately 134 square miles. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against ACP within this additional area. The total area which would be under regulation is now approximately 53,769 square miles.

DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

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

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

The Department has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost impacts on a representative private person or business: Most businesses will not be affected. There are zero citrus production nurseries in the affected area that will be impacted. There are zero retail nurseries in the affected area. There is one citrus grower in the proposed area. There is no additional cost to growers who take their fruit to a packinghouse inside the current quarantine area. Growers choosing a packinghouse outside the quarantine area have three options: 1. Conduct pre-harvest treatments with an approved pesticide while fruit is still on the trees; 2. Field-clean the fruit to remove leaves and stems during harvest; 3. Send the fruit to a packinghouse within the quarantine area to be cleaned. Pre-harvest treatments cost growers approximately \$60 per acre, and the fruit is required to be covered with a tarp while in transit. Tarps range in price from \$2,500-\$3,000 apiece. Field-cleaning the fruit will cost the grower approximately \$150-\$320 per acre depending on the citrus variety. Field-cleaned fruit does not require a tarp for transport and can be moved within or from the quarantined area. Cleaning at a packinghouse within the quarantine area will cost the grower approximately \$300-\$400 per acre, and the fruit must remain within the quarantine area, although the loads do not need to be covered with a tarp. There are zero citrus packinghouses located within this quarantine area.

Based on the preceding above information, it was determined that due to the amendment of Section 3435(b), the agency is not aware of any cost impact on a representative business or private person. For the vast major-

ity of businesses within the regulated area, no additional costs will be incurred.

*Small Business Determination*

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

Significant effect on housing costs: None.

Results of the Economic Impact Analysis

Amendment of these regulations will not:

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

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

INTERNET ACCESS

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

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

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

The Department of Food and Agriculture (Department) amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid (ACP) Interior Quarantine as an emergency action which was effective on May 12, 2016. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 8, 2016.

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

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to [Sara.Khalid@cdfa.ca.gov](mailto:Sara.Khalid@cdfa.ca.gov). The written comment period closes at 5:00 p.m. on August 29, 2016. The Department will consider only comments received at the Department offices by that time. Submit comments to:

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

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and concluded HLB had a total impact of \$3.64 billion and eliminated seven percent of the total Florida workforce. The overall California economy benefits by the amendment of this regulation, which is intended to prevent ACP from becoming generally distributed in California and resulting in a similar effect on our economy as to what happened in Florida. This is now critical as HLB has been introduced into California.

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

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

AMENDED TEXT

The emergency rulemaking action expanded the quarantine area for ACP in San Luis Obispo County by approximately five square miles. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against ACP within this additional area. The total area which would be under regulation is now approximately 53,772 square miles.

DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

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

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

The Department has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost impacts on a representative private person or business: Most businesses will not be affected. There are zero citrus production nurseries in the affected area that will be impacted. There are zero retail nurseries in

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

Based on the preceding above information, it was determined that due to the amendment of Section 3435(b), the agency is not aware of any cost impact on a representative business or private person. For the vast majority of businesses within the regulated area, no additional costs will be incurred.

*Small Business Determination*

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

Significant effect on housing costs: None.

Results of the Economic Impact Analysis

Amendment of these regulations will not:

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

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

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

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

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

New Section 5189.1 of the General Industry Safety Orders Process Safety Management for Petroleum Refineries

**NOTICE IS HEREBY GIVEN** that the Occupational Safety and Health Standards Board (Board) proposes to adopt the proposed regulations governing Process Safety Management (PSM) for petroleum refineries. These regulations are found in Subchapter 7, General Industry Safety Orders (GISO) of Chapter 4, commencing with New Section 5189.1, of Title 8 of the California Code of Regulations (CCR).

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on September 15, 2016, in the Auditorium of the State Resources Building, 1416 9th Street, Sacramento. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests, but does not require, that people who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on July 15, 2016 and closes at 5:00 p.m. on September 15, 2016. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of the time in which to submit written comments. Written comments can be submitted as follows:

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

#### AUTHORITY AND REFERENCE

Labor Code (LC) Section 142.3 establishes the Board as the only agency in the state authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards. Labor Code Section 7856 mandates the adoption of process safety management standards for refineries. The proposed regulations implement, interpret, and make specific Labor Code Section 7856.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The federal Clean Air Act Amendments of 1990 [42 U.S.C. Section 7412(r)] directed the federal Occupational Safety and Health Administration (OSHA) and the United States Environmental Protection Agency (EPA) to develop regulations to prevent accidental chemical releases. These became known as the Process Safety Management (PSM) and Risk Management Plan (RMP) regulations, respectively. On February 24, 1992, OSHA published a Final Rule for *Process Safety Management of Highly Hazardous Chemicals* (57, Fed. Reg., 6356, February 24, 1992), codified as 29 CFR Section 1910.119.

The Department of Industrial Relations (DIR) subsequently adopted a PSM standard (CCR Title 8, Section 5189) pursuant to its mandate to adopt standards that are at least as effective as federal standards. Section 5189 is substantially the same as the federal counterpart, in that it addresses the prevention of catastrophic releases of toxic, reactive, flammable, and explosive chemicals and applies to employers who use a process involving a particular chemical (or chemicals) at or above certain threshold quantities (listed in Appendix A) or a flammable liquid or gas as defined in subsection (c) of the regulation.

Since 1992, California's PSM standard has covered approximately 1,500 facilities in the state that handle or process certain hazardous chemicals including its 12 oil refineries, which process approximately two million barrels of crude oil per day into gasoline, diesel fuel, jet fuel, and chemical feedstocks.

Following a chemical release and fire at the Chevron refinery in Richmond, CA, on August 6, 2012, the Gov-

ernor's Interagency Working Group on Refinery Safety prepared a report raising concerns and recommendations about the safety of California's oil refineries. The report recommended the establishment of an Interagency Refinery Task Force to: (1) coordinate revisions to the state's PSM regulations and California Accidental Release Program (Cal/ARP) regulations; (2) strengthen regulatory enforcement; and (3) improve emergency preparedness and response procedures.

In accordance with the recommendations of the report, the Division of Occupational Safety and Health (known as Cal/OSHA), a division of DIR, is promulgating a new PSM regulatory proposal for oil refineries, GISO Section 5189.1. The proposal implements the recommendations of the report and other PSM elements that safety experts have learned over the past two decades are essential to the safe operation of a refinery. These beneficial elements include: applying a *hierarchy of controls* to implement first- and second-order inherent safety measures; conducting *damage mechanism reviews*; applying rigorous *safeguard protection analyses*; integrating *human factors* and *safety culture assessments* into safety planning; *involving front-line employees* in decision-making; conducting *root-cause analysis* following significant incidents; and performing comprehensive *process hazard analyses*.

The refineries operating in California have adopted many of these practices over the past decade, with significant improvements in safety performance; however, the industry continues to experience significant upset events.<sup>1</sup>

The regulatory proposal sets safety performance standards for refinery employers and ensures that those standards are met through improvements in transparency, accountability, worker participation, and enforcement.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

<sup>1</sup> U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, *Energy Assurance Daily*, available at <http://www.oe.netl.doe.gov/ead.aspx> (accessed December 9, 2014). (Note: For weekly summaries, go to "Download EADs" and scroll to "Petroleum.")

## THE GOVERNOR'S REPORT

Governor Jerry Brown convened the Interagency Working Group on Refinery Safety, consisting of representatives from thirteen state, federal, and local agencies and departments. The Working Group examined strategies to improve public and worker safety through enhanced oversight of refineries and to strengthen emergency preparedness in anticipation of any future incident. The Working Group issued its report in February 2014, recommending changes in the PSM standard that would require petroleum refineries to:

1. Implement inherently safer systems to the greatest extent feasible
2. Perform periodic safety culture assessments
3. Incorporate damage mechanism hazard reviews into process hazard analyses
4. Conduct root-cause analyses after significant accidents or releases
5. Account for human factors and organizational changes
6. Use structured methods, such as layer of protection analysis, to ensure adequate safeguards in process hazard analyses.

The Governor's Office directed the relevant agencies, including DIR, to respond to these and other recommendations in the report with regulatory changes.

New regulatory requirements to implement these and other recommendations appear in the 24 subsections of the proposed PSM regulation for petroleum refineries, GISO Section 5189.1. These changes represent a comprehensive safety performance standard for the state's refinery sector that prioritize implementation of inherently safer systems to reduce the risk of incidents and eliminate or minimize process safety hazards to which employees may be exposed.

## STAKEHOLDER INPUT

In developing revisions to the PSM regulations, DIR conducted extensive outreach to industry, refinery workers, community-based organizations, and the public. During 2014–15, 26 meetings and hearings were held to discuss process safety and elicit participant input. Four of these meetings involved DIR's PSM Advisory Committee, whose membership comprised invited representatives of labor and industry. All Advisory Committee meetings were open to the public.

The final text of the proposed regulations incorporates the significant improvements suggested by labor, industry, associations, academia, and the public.

## DISCLOSURES REGARDING THE PROPOSED ACTION

**Cost or Savings to any State Agency:** DIR Cal/OSHA PSM Unit will enforce the proposed regulations and has contemplated the associated cost of enforcement. The California Legislature approved a budget that added new inspector positions to this unit, which are user funded through Cal/OSHA's fee authority. DIR will implement the proposed regulations using currently approved resources and staffing levels. If ongoing monitoring of workload and performance indicates a need for additional resources to meet the requirements, a budget change proposal will be prepared and submitted in accordance with standard Department of Finance protocol.

**Cost to any Local Agency or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630:** None.

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

**Cost or Savings in Federal Funding to the State:** None.

**Cost Impacts on a Representative Private Person or Business:**

In recent years, gasoline consumption in California has averaged about 14.5 billion gallons per year. California requires a unique reformulated gasoline blend to meet the state's pollution control requirements. Gasoline made in other states to meet other state and federal pollution requirements does not meet California standards. Consequently, all gasoline consumed in California is typically refined in the state. Therefore, California refiners' cost of implementing the proposed regulations can be distributed over the cost to consumers of purchasing 14.5 billion gallons of California gasoline.

Spreading the \$58 million estimated cost of the regulations across this volume of sales indicates an increase in price of about \$0.004, or slightly less than half a cent per gallon. The lower estimate of \$20 million reduces this impact to \$0.0014 or about 1/7 of a cent, while the upper estimate of \$183 million increases the impact to \$0.013, or 1.3 cents per gallon. Aggregating this to calculate the impact on the average adult Californian yields an estimated cost per person of about \$2 per year, with a low estimate of \$0.68 and a high estimate of \$6.20 per person per year.

**Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete:** DIR

makes an initial determination that the action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The estimated costs of the proposed regulations

are relatively small compared to the size of the industry (\$131 billion per year and the fourth-largest industry by output in the state).

Based on the economic modeling, refiners in California complying with the proposed PSM regulations will experience the advantage of cost avoidance due to the reduced likelihood and severity of a major refinery incident, such as the ExxonMobil incident in Torrance in 2015. This will reduce the cost associated with lost output, which in the ExxonMobil incident had an estimated value of \$323 million (not including the additional equipment repair costs, which could not be estimated).

**Significant Effect on Housing Costs:** None.

#### DETERMINATION OF MANDATE

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

#### SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulations do not affect small businesses. Petroleum refineries are not considered small business under Government Code Section 11342.610(b)(9).

#### RESULTS OF THE STANDARDIZED REGULATORY ECONOMIC IMPACT ANALYSIS

##### *The creation or elimination of jobs in the state.*

The proposed PSM and CalARP regulations will create an estimated 158 jobs in the state's petroleum refining sector (between 57 and 325 jobs), based on an estimated total compensation (generated by macroeconomic analysis software) in the California refinery sector of \$334,000 per employee and a total increase in labor costs of \$58 million. There is no associated elimination of jobs anticipated.

##### *The creation of new businesses or the elimination of existing businesses in the state.*

There is no anticipated creation or elimination of businesses in California.

##### *The competitive advantages or disadvantages for businesses currently doing business in the state.*

Based on the economic modeling, refiners in California complying with the proposed PSM regulations will

experience the advantage of cost avoidance due to the reduced likelihood and severity of a major refinery incident, such as the ExxonMobil incident in Torrance in 2015. This will reduce the cost associated with lost output, which in the ExxonMobil incident had an estimated value of \$323 million (not including the additional equipment repair costs, which could not be estimated).

##### *The increase or decrease of investment in the state.*

Multiple stakeholder and advisory meetings with labor, industry, advocacy groups, and other agencies have contributed to the development of the proposed regulations. All input has been considered, and the current proposed regulations reflect a balanced, enforceable, and prevention-focused approach to reducing risks in this industry. There is no indication that the regulations will affect investment in California.

Given the expected annual loss of \$800 million to the California economy due to a costly major refinery incident, the proposed regulations will have to reduce the risk of a costly major incident by 7.3% to be economically justified. Additional sensitivity analysis was conducted to assess how varying expected amounts of annual loss affect the critical risk reduction values.

##### *The incentives for innovation in products, materials, or processes.*

The proposed regulations require the establishment of several programs that drive refiners to analyze and implement processes and select materials that offer the highest levels of risk reduction. The inherent safety requirements promote an approach to safety that focuses on eliminating or reducing the hazards associated with certain conditions. A process is inherently safer if it eliminates or reduces the hazards associated with materials or operations used in the process, and this elimination or reduction is permanent and inseparable from the material or operation. A process with eliminated or reduced hazards is described as inherently safer than a process with only passive, active, or procedural safeguards. The process of identifying and implementing inherent safety in a specific context is known as "inherently safer design." Examples of how innovation is incentivized are described in the prioritized approaches to safety:

- **First-Order Inherent Safety Measure** — a measure that eliminates a hazard. Changes in the chemistry of a process that eliminate the hazards of a chemical are usually considered first-order inherent safety measures — for example, by substituting a toxic chemical with an alternative chemical that can serve the same function but is nontoxic.

- Second-Order Inherent Safety Measure — a measure that effectively reduces risk by reducing the severity of a hazard or the likelihood of a release, without the use of additional safety devices. Changes in process variables to minimize, moderate, and simplify a process are usually considered second-order inherent safety measures — for example, by redesigning a high-pressure, high-temperature system to operate at ambient temperatures and levels of pressure.

*The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, environment and quality of life, and any other benefits identified by the agency.*

The proposed regulations may improve safety at California refineries, which will in turn result in fewer major process incidents and fewer releases of hazardous materials from refineries. Because the number of major refinery incidents may be reduced under the proposed regulation, it could provide safety and health benefits to workers and the public in nearby communities as well as other economic benefits for businesses. The proposed regulations will also increase the openness and transparency of business and government.

#### Department of Finance Comments and Responses

1. Please specify the costs of implementing and enforcing the proposed regulations for state level agencies.

For PSM, as documented in the STD 399: Fiscal Impact Statement B.4.: DIR will implement the proposed regulations using currently approved resources and staffing levels. If additional resources are determined to be necessary, a budget change proposal will be submitted to DOF.

2. What can be shared with readers regarding the efficacy of the Safety Case Regime that is proposed as Alternative #2?

As noted in Improving Public and Worker Safety at Oil Refineries Report of Governor Brown's Interagency Working Group on Refinery Safety <http://www.calepa.ca.gov/Publications/Reports/2014/RefineryRpt.pdf>, p. 10:

RAND Corporation Findings. The RAND Corporation prepared a memo, Refinery Process Safety Performance and Models of Government-Industry Relations, discussing some of the issues involved in considering new models of industry regulation. RAND suggested that Cal/OSHA could move in the direction of the safety case approach, but noted that evidence to date on whether the safety case has improved performance is mixed, and that implementing this approach would require significantly greater division resources than cur-

rently employed. The memo suggests that Cal/OSHA adopt an incremental approach for transitioning to the safety case, perhaps by expanding the Contra Costa County Industrial Safety Ordinance. The memo also discussed the desirability of developing lagging and leading indicators of refinery performance and suggested that this be done through a collaborative industry-labor process. RAND Corporation testimony is available at

[http://www.rand.org/content/dam/rand/pubs/testimonies/CT300/CT392/RAND\\_CT392.pdf](http://www.rand.org/content/dam/rand/pubs/testimonies/CT300/CT392/RAND_CT392.pdf) (see .5 in particular for relevant discussion).

#### CONSIDERATION OF ALTERNATIVES

##### Alternative 1: Maintain status quo

One alternative considered was continued enforcement of petroleum refineries under the existing PSM regulation without revising the requirements. In the past four years, there have been two major incidents (Chevron in 2012 and Exxon in 2015). Per the Governor's Task Force Report, existing law, regulation, and level of staffing were unable to forestall the Chevron incident and more needs to be done to prevent future incidents of similar or worse consequences. Since 2012, Cal/OSHA has increased enforcement staffing from 4 to 10 safety inspectors dedicated to refineries. The additional level of safety achieved through the increased enforcement efforts will be maintained under the current PSM requirements. The costs associated with the continued enforcement or status quo under the existing regulation reflect an unknown but anticipated number of incidents that may happen in the absence of the requirements and tools provided in the proposed new PSM regulation. These consequences are largely untenable, given the levels of incidents experienced in the recent years.

##### Alternative 2: Safety Case Model

California's existing model of work safety regulation in process safety management emphasizes investigating serious accidents that have occurred. As examined by the RAND Center for Health and Safety in the Workplace, over the last 25 years, a perspective has developed that argues that the models currently used — nationwide and in California — are inadequate to ensure safety at very complex facilities, especially those characterized by risks that have low frequency but very high disaster potential. This perspective emerged first in Europe, triggered by disasters in the North Sea and at Seveso (RAND 2013). The former led the United Kingdom and Norway to develop a "safety case" approach to regulating off-shore oil platforms in the 1990s, an approach that later expanded to other high-hazard process industries.

The “safety case” approach involves considerably more resources in terms of time and agency inspectors. The Hazardous Facilities Unit, which oversees the United Kingdom with safety cases, typically conducts several audits each year at refineries to assess their safety case activities. The safety case model requires facilities to explain what they will do in order to try to ensure their safety. The regulatory authority is charged with determining whether a facilities’ explanation or effort is acceptable or effective. Most regulatory scrutiny goes to auditing the facility to determine whether it has been carrying out the activities called for in the safety case document. Although some contend that the safety case process leads to initial gains in hazard recognition and abatement, however, it must remain “a living document” in order to fulfill its objectives.

A concern with the safety case approach is that describing and documenting how a refinery will manage risks is not equivalent with actually managing risks. Further, augmenting oversight from the existing regulations to a level prescribed by the “safety case” approach would be largely infeasible given the related requisite resource demands for regulatory authorities. This approach is estimated to require a fourteen-fold increase in staff for Cal/OSHA — from 10 inspectors statewide to 10 inspectors for each of California’s 14 refineries. Additional costs for refineries would also be anticipated, given the significant changes this would necessitate in regulatory dynamics. For these reasons, the “safety case” model is not considered a reasonable alternative to the proposal.

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

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) or Michael Manieri (Principal Safety Engineer) at the Oc-

cupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

**TITLE 14. FISH AND GAME  
COMMISSION**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 3800 and 4150 of the Fish and Game Code and to implement, interpret or make specific Sections 3800 and 4150 of said Code, proposes to amend Section 472, Title 14, California Code of Regulations, relating to nongame animals general provisions.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

The status of domestic pigeons is uncertain under existing law. Fish and Game Code (FGC) Section 3680 implies that the shooting or taking of domestic pigeons is lawful. However, since their status (e.g. as the feral progeny of domestic birds) in the Code is unclear, the actual conditions under which they can be shot or taken are also unclear. FGC Section 3800 makes it unlawful to take nongame birds except as authorized by code or regulation.

Increasing populations of nonnative species have developed in many areas of California to the detriment of our native wildlife. Nonnative deer species compete with native species for the limited resources, forage, and habitat necessary for survival. They may also transmit diseases or parasites for which native species have no natural immunity or defenses. Current regulation permits the take of nonnative deer during the general deer season in the deer zone where they are found.

**PROPOSED REGULATION**

In order to clarify the status of domestic pigeons, the proposed amendment to subsection 472(a) specifies domestic pigeons are a nongame species which may be taken at any time and in any number except as specified.

In order to extend hunting opportunity and reduce populations of nonnative deer species, the proposed amendments to subsection 472(b) are necessary:

- (b) Extend the season for nonnative deer, of either sex, to include the deer, elk, and antelope seasons on any properties enrolled in Private Lands Management Programs authorized for hunting, and add that there is no bag or possession limit for nonnative species.
- (b)(1) Clarify that the possession of a valid hunting license is required for taking nonnative species; however, no tag, stamp, or additional endorsement of any kind is required.

- (b)(2) Clarify that it is unlawful to needlessly waste the edible flesh of nonnative deer.

**BENEFITS OF THE PROPOSED REGULATIONS**

The Commission anticipates benefits to the health and welfare of California residents. Establishing specific regulations regarding the take of nonnative deer species will create new hunting opportunities and help reduce negative impacts on native species populations and habitats by reducing populations of competing nonnative species.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. The regulation will clarify the conditions for take of domestic pigeons to provide consistency in application on a statewide basis and create new hunting opportunities for nonnative deer. Hunting provides opportunities for multi-generational family activities and promotes respect for the continued existence of California's natural resources by the future stewards of the State's resources.

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

**EVALUATION OF INCOMPATIBILITY WITH  
EXISTING REGULATIONS**

Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the take of nongame birds and mammals (Sections 3800 and 4150, Fish and Game Code). No other State agency has the authority to promulgate hunting regulations. The Commission has searched the California Code of Regulations and has found the proposed changes pertaining to the general provisions of the nongame section consistent with the provisions of Title 14; therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Red Lion Inn, 1929 4th Street, Eureka, California, on Wednesday, October 20, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before Octo-

ber 6, 2016, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). **Written comments mailed, or emailed to the Commission office, must be received before 5:00 p.m. on October 14, 2016.** All comments must be received no later than **October 20, 2016**, at the hearing in Eureka, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Caren Woodson at the preceding address or phone number. **Karen Fothergill, Department of Fish and Wildlife, phone (916) 716–1461 or email [Karen.Fothergill@wildlife.ca.gov](mailto:Karen.Fothergill@wildlife.ca.gov), has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, the regulatory language, the Notice, and other rulemaking documents, may be obtained from either the address above or on the Commission’s website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

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

Impact of Regulatory Action/Results of the Economic Impact Assessment

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are unlikely to increase or decrease current levels of hunting effort in California.

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

The Commission anticipates benefits to the health and welfare of California residents. Establishing specific regulations regarding the take of nonnative deer species will create new hunting opportunities and help reduce negative impacts on native species populations and habitats by reducing populations of competing nonnative species.

The Commission anticipates benefits to the State’s environment in the sustainable management of natural resources. The regulation will clarify the conditions for take of domestic pigeons to provide consistency in application on a statewide basis and create new hunting opportunities for nonnative deer. Hunting provides opportunities for multi–generational family activities and promotes respect for the continued existence of California’s natural resources by the future stewards of the State’s resources.

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of businesses, or the expansion of businesses in California. The Commission does not anticipate any benefit to worker safety.

- (c) Cost Impacts on a Representative Private Person or Business:

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that are Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations will not affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

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

**TITLE 14. FISH AND GAME COMMISSION**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203, 215, 220, 331, 332 and 1050 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 202, 203, 203.1, 207, 215, 219, 220, 331, 332, 713, 1050, 1055, 1055.1, 1570, 1571, 1572, 1573, 3500, 3682.1, 3683, 3950, 3951, 4302, 4330, 4331, 4332, 4333, 4336, 4340, 4341, 4652, 4653, 4654, 4655, 4657, 4750, 4751, 4752, 4753, 4754, 4755, 4902, 10500 and 10502 of said Code, proposes to amend Section 702 and add Section 715, Title 14, California Code of Regulations, relating to Upland Game Bird Special Hunt Drawing and Application Fee.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

A new Section 715, Upland Game Bird Special Hunt Drawing, is proposed to establish the application and drawing procedures for wild upland game bird hunt reservations in the Automated License Data System (ALDS). ALDS is the central location for the public to apply for all Department licenses and hunting opportunities. The ALDS drawing process provides more accuracy and flexibility to the public and allows applicants to easily select their first, second and third choice wild

bird hunts. A fee of \$5.00 per application for the Upland Game Bird Special Hunt Drawing is proposed to be added in Section 702.

Benefits of the regulations

The Commission anticipates benefits to the health and welfare of California residents. ALDS provides a single location for the public to apply for all department hunts including big game and waterfowl hunting opportunities. Data collected and compiled through ALDS will be accessible in a consistent format for the Department's use. Adding the Upland Game Bird Special Hunt Drawing to ALDS will provide the same benefits of fairness and flexibility as well as important information necessary to properly manage upland game bird populations.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. The proposed regulation could reduce the time required to apply for Upland Game special hunting opportunities and will improve the accuracy of the data collection. Adoption of regulations to increase sustainable hunting opportunity provides for the maintenance of sufficient populations of upland game birds to ensure their continued existence.

Non-monetary benefits to the public

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

Consistency with State or Federal Regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200, 202 and 203, has the sole authority to regulate hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to reservation drawing selection for wild upland game bird hunting opportunities through ALDS to be consistent with the provisions of Title 14. Therefore the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing state regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Lake Natoma Inn Hotel & Conference Center, 702 Gold Lake Drive, in Folsom, California, on Wednesday August 25, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Red Lion Inn, 1929 4th Street, Eureka, California, on Wednesday, Oc-

tober 20, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 6, 2016, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). **Written comments mailed, or emailed to the Commission office, must be received before 5:00 p.m. on October 14, 2016.** All comments must be received no later than **October 20, 2016**, at the hearing in Eureka, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Caren Woodson at the preceding address or phone number. **Karen Fothergill, Department of Fish and Wildlife, phone (916) 716–1461 or email [Karen.Fothergill@wildlife.ca.gov](mailto:Karen.Fothergill@wildlife.ca.gov), has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, the regulatory language, the Notice, and other rulemaking documents, may be obtained from either the address above or on the Commission’s website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

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

Impact of Regulatory Action/Results of the Economic Impact Assessment

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action automates an existing hunt drawing process through the use of ALDS. This proposal is economically neutral to business.

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

The Commission anticipates benefits to the health and welfare of California residents. ALDS provides a single location for the public to apply for all department hunts including big game and waterfowl hunting opportunities. Data collected and compiled through ALDS will be accessible in a consistent format for the Department’s use. Adding the Upland Game Bird Special Hunt Drawing to ALDS will provide the same benefits of fairness and flexibility as well as important information necessary to properly manage upland game bird populations.

The Commission anticipates benefits to the State’s environment in the sustainable management of natural resources. The proposed regulation could reduce the time required to apply for Upland Game special hunting opportunities and will improve the accuracy of the data collection. Adoption of regulations to increase sustainable hunting opportunity provides for the maintenance of sufficient populations of upland game birds to ensure their continued existence.

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California. The Commission does not anticipate any benefits to worker safety.

- (c) Cost Impacts on a Representative Private Person or Business:

The Department proposes a modest fee to recover reasonable costs of the drawing as required by statute. The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that are Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations will not affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

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

**TITLE 17. CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE**

**Chapter 2. Medical and Ethical Accountability Standards**

**Amendments to Sections 100010–100050 & 100070**

**Date: July 15, 2016**

**Deadline for Submission of Written Comment: August 29, 2016 — 5:00 p.m.**

**Public Hearing Date: None Scheduled**

**Subject Matter of Proposed Amendments: Loan Administration Policy**

**Sections Affected:** The proposed regulatory action amends Chapter 2, Sections 100010 through 100050,

and 100070, of Title 17 of the California Code of Regulations.

**Authority:** Article XXXV of the California Constitution and Health and Safety Code Section 125290.40, subdivision (j).

**Reference:** Sections 125290.30, Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Institute for Regenerative Medicine (“Institute” or “CIRM”) was established in 2005 after the passage in 2004 of Proposition 71 (the “Act”), the California Stem Cell Research and Cures Initiative. The statewide ballot measure established a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities. The Independent Citizens’ Oversight Committee (“ICOC”) is the 29–member governing board for the Institute. The ICOC members are public officials, appointed on the basis of their experience earned in California’s leading public universities, non–profit academic and research institutions, patient advocacy groups and the biotechnology industry. The Act charges the ICOC with developing standards and criteria to make grant awards and to develop standards and criteria for proper oversight of awards. (§ 125290.50.) To that end, CIRM has adopted rules regarding Intellectual Property and specifically a regulation governing publication of CIRM–funded research.

The Scientific and Medical Accountability Standards Working Group (“Standards Working Group” or “SWG”) makes recommendations to the ICOC on scientific, medical and ethical standards pertaining to stem cell research the Institute funds. Specifically, California Health and Safety Code section 125290.55 requires the Standards Working Group to: 1) recommend to the ICOC scientific, medical and ethical standards; 2) recommend to the ICOC standards for all medical, socioeconomic, and financial aspects of clinical trials and therapy delivery to patients, including, among others, standards for safe and ethical procedures for obtaining materials and cells for research and clinical efforts for the appropriate treatment of human subjects in medical research consistent with paragraph (2) of subdivision (b) of Section 125290.35, and to ensure compliance with patient privacy laws; 3) recommend to the ICOC modification of the standards described in numbers (1) and (2) as needed; 4) make recommendations to the ICOC on the oversight of funded research to ensure compliance with the standards described in numbers (1) and (2); and, 5) advise the ICOC, the Scientific and Medical Research Funding Working Group, and the Scientific and Medical Research Facilities Working

Group on an on-going basis on relevant ethical and regulatory issues.

The Scientific and Medical Accountability Standards (“MES”) Working Group convened to consider new amendments to the MES regulations. One of the primary goals of these amendments is to align the MES regulations with CIRM 2.0 and associated revisions to the Grants Administration Policy already approved by the ICOC. Thus, the proposed amendments are designed to provide agency-wide alignment of operations, procedures and policies.

A series of amendments were considered at a public meeting of the CIRM Scientific and Medical Accountability Standards Working Group in April 2015. The proposed amendments are grouped into three categories.

Anticipated Benefits and Purposes of Proposed Amendments:

*(1) Amendments intended to align MES Regulations with CIRM 2.0 & GAP revisions*

These amendments primarily involve incorporating terms such as “grantee” that are in the revised GAP. In addition, the term “human subjects research” is defined to align the MES regulations with Federal policies for protection of research subjects.

*(2) Amendments intended to make the regulations clearer and easier to implement*

These amendments primarily involve section 100050 Compliance and 100085 Fetal Tissue. Section 100050 contains provisions identical to those in CIRM’s Grants Administration Policy. Rather than restate the requirements here, CIRM proposes referring to the applicable section of the GAP. Section 100085 reiterates Federal policy regarding use of fetal tissue in research. CIRM proposes referencing the applicable Federal policy requirement.

*(3) Amendments to regulatory review and oversight*

Two policy changes relating to animal studies are proposed. The first change to section 100030 would allow the breeding of animals where covered stem cell lines have been introduced provided human genetic material does not contribute to the germ line. This policy is consistent with the 2010 National Academies’ Guidelines for Human Embryonic Stem Cell Research and is designed to allow multigenerational safety studies of stem cell therapies in animal models.

The second change proposes to exempt pre-clinical animal studies, where human neural progenitor cells are transplanted to the brains of mature animals, from review by a stem cell research oversight committee provided the study is being performed pursuant to an FDA IND or IDE. The rationale for this change is twofold. First, institutional animal care and use committees (IACUCs) provide oversight for animal studies. Sec-

ond, a major goal of the CIRM 2.0’s Late Stage Preclinical Projects is to speed the introduction of therapies into the clinic. Organizations applying under CIRM 2.0 may not have access to a stem cell research oversight committee thus creating a potential barrier to entry.

Consistency with Existing State Regulations:

After performing an evaluation for any other regulations in this area, CIRM has determined that these are the only regulations dealing with recipients of CIRM funds, and therefore the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED AMENDMENTS

CIRM has made the following initial determinations:

**Mandate on local agencies and school districts:**

CIRM has determined that the proposed amendments do not impose a mandate on local agencies or school districts, nor do they require reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the amendments do not constitute a “new program or higher level of service of an existing program” within the meaning of Section 6 of Article XIII of the California Constitution.

**Submittal of Comments:**

Any interested party may present comments in writing about the proposed amendments to the agency contact person named in this notice. Written comments must be received no later than 5:00 p.m. on August 29, 2016. Comments regarding this proposed action may also be transmitted via e-mail to [mescomments@cirm.ca.gov](mailto:mescomments@cirm.ca.gov).

**Public Hearing:**

At this time, no public hearing has been scheduled concerning the proposed regulations. If any interested person or the person’s representative requests a public hearing, he or she must do so in writing no later than August 15, 2016.

**Effect on Small Business:**

CIRM has determined that the proposed amendments will have no impact on small businesses. The regulation implements medical and ethical standards for CIRM-funded stem cell research. This research is conducted almost exclusively by large public and private nonprofit institutions. As such, the amendments to the regulation are not expected to adversely impact small business as defined in Government Code Section 11342.610.

**Impact on Local Agencies or School Districts:**

CIRM has determined that there are no costs to any local agency or school district that are required to be re-

imbursed pursuant to Government Code section 17500 et seq.

**Other Nondiscretionary Cost or Savings to Local Agencies:**

CIRM has also determined that there are no other nondiscretionary cost or savings imposed upon local agencies that will result from the proposed amendments.

**Costs or Savings to State Agencies:**

CIRM has determined that no savings or increased costs to any agency will result from the proposed amendments.

**Effect on Federal Funding to the State:**

CIRM has determined that no costs or savings in federal funding to the state will result from the proposed amendments.

**Effect on Housing Costs:**

CIRM has determined that the proposed amendments will have no effect on housing costs.

**Significant Statewide Adverse Economic Impact Directly Affecting Businesses:**

CIRM has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California Businesses to compete with businesses in other states.

**Cost Impacts on Representative Private Persons or Businesses:**

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

**Results of Economic Impact Analysis:**

Under section 3 of the “California Stem Cell Research and Cures Act,” which established the California Institute for Regenerative Medicine, funds for this agency are continuously appropriated without regard to fiscal year and not subject to budgetary control. The Act requires CIRM adopt rules to apply to Grants and Loans made by the agency.

CIRM has determined that that proposed regulatory action has no direct impact on small businesses. Virtually all applicants for CIRM funding are either large academic nonprofit institutions or well-capitalized biotechnology ventures. As such, the regulation is not expected to adversely impact small business as defined in Government Code section 11343.610. Application for grant funds is voluntary and grant awards are required by Proposition 71 to include a prescribed additional amount to cover any costs associated with administration of the grant by grant recipients.

This action is not expected to have a direct impact on the creation or elimination of jobs, nor the creation of

new businesses or elimination of existing businesses, nor the expansion of business currently doing business within the State of California because the regulation affects only administrative requirements regarding use of loan and grant funds. The use of CIRM funds is required neither by law nor these regulations. To the extent the amendments facilitate use of the funds and encourage development of intellectual property and return to the state as required by law, and to the extent California institutions apply for and receive research funds, such requirements are indirectly attributable to increased economic activity spurred by the investment research funds in the state and resultant positive business and employment development. Also, to the extent the amendments make it possible for the expenditure of research funds in the state, and to the extent that research results in medical treatments and cures for chronic disease and injury, the regulation indirectly benefit the health and welfare of California residents who will benefit from such treatments and cures.

**Consideration of Alternatives:**

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

**Availability of Statement of Reasons and Text of Proposed Regulations:**

CIRM has prepared an Initial Statement of Reasons, and has available the express terms of the proposed amendments, all of the information upon which the amendments are based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which CIRM relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

**Availability of Changed or Modified Text:**

After considering all timely and relevant comments, CIRM may adopt the proposed amendments substantially as described in this notice. If CIRM makes modifications that are sufficiently related to the originally proposed text of the amendments, it will make the mod-

ified text (with the changes clearly indicated) available to the public for at least 15 days before it adopts the regulations as amended. Requests for the modified text should be addressed to the agency contact person named in this notice. CIRM will accept written comments on any changes for 15 days after the modified text is made available.

**Agency Contact:**

Written comments about the proposed regulatory action; requests for a copy of the Initial Statements of Reasons, the proposed text of the amendments; and inquiries regarding the rulemaking file may be directed to:

Scott Tocher  
 Deputy General Counsel  
 California Institute for Regenerative Medicine  
 1999 Harrison Street, Suite 1650  
 Oakland, CA 94612  
 (415) 396-9100

Questions on the substance of the proposed regulatory action may be directed to:

Amy Cheung  
 California Institute for Regenerative Medicine  
 (415) 396-9100

The Notice of Proposed Regulatory Amendment, the Initial Statement of Reasons and any attachments, and the proposed text of the amendments and existing regulation are also available on CIRM’s website, [www.cirm.ca.gov](http://www.cirm.ca.gov).

**Availability of Final Statement of Reasons:**

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code Section 11346.9, subdivision (a), may be obtained from the contact person named above.

**TITLE 18. BOARD OF EQUALIZATION**

**The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 1702.5, *Responsible Person Liability***

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation or Reg.) 1702.5, *Responsible Person Liability*. The proposed amendments address a current issue with Regulation 1702.5 by providing sufficient clarification and guidance regarding all of the Board’s historical legal in-

terpretations of RTC section 6829’s and Regulation 1702.5’s provisions, ensuring that Board staff’s efforts in pursuing personal liability, under RTC section 6829, are more focused on those persons, whom prior experience has shown, are generally found to be personally liable based on the evidence, and only permitting a Notice of Determination (NOD) to be issued to a person for a responsible person liability, under RTC section 6829, after Board staff has evidence to satisfy the regulation’s requirements for personal liability against that person.

**PUBLIC HEARING**

The Board will conduct a meeting in Room 121 at 450 N Street, Sacramento, California on August 30-31 and September 1, 2016. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board’s Website at [www.boe.cagov](http://www.boe.cagov) at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:00 a.m. or as soon thereafter as the matter may be heard on August 30 or 31 or September 1, 2016. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Regulation 1702.5.

**AUTHORITY**

RTC section 7051.

**REFERENCE**

RTC section 6829.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Summary of Existing Laws and Regulations

California imposes sales tax on retailers for the privilege of selling tangible personal property at retail. (RTC, § 6051.) Unless an exemption or exclusion applies, the tax is measured by a retailer’s gross receipts from the retail sale of tangible personal property in California. (RTC, §§ 6012, 6051.) Although sales tax is imposed on retailers, retailers may collect sales tax reimbursement from their customers if their contracts of sale so provide. (Civ. Code, § 1656.1; Reg. 1700, *Reimbursement for Sales Tax*.)

When sales tax does not apply, use tax is imposed on the use of tangible personal property purchased from a retailer for storage, use, or other consumption in Cali-

fornia. (RTC, §§ 6201, 6401.) Unless an exemption or exclusion applies, the use tax is measured by the sales price of tangible personal property and the person actually storing, using, or otherwise consuming the property is liable for the tax. (RTC, §§ 6201, 6202.) However, every retailer “engaged in business” in California that makes sales subject to California use tax is required to collect the use tax from its customers and remit it to the State Board of Equalization (Board), and such retailers are liable for California use tax that they fail to collect from their customers and remit to the Board. (RTC, §§ 6203, 6204; Reg. 1684, *Collection of Use Tax by Retailers.*)

Every person engaged in the business of selling (or leasing) tangible personal property of a kind the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and only a person actively so engaged, is required to hold a seller’s permit for each place of business in this state at which transactions relating to sales are customarily negotiated with his or her customers. (Reg. 1699, *Permits.*) “Retailers who are not engaged in business in this state may apply for a Certificate of Registration — Use Tax. Holders of such certificates are required to collect [use] tax from purchasers, give receipts therefor, and pay the tax to the Board in the same manner as retailers engaged in business in this state.” (Reg. 1684)

RTC section 6829 was enacted in 1981 and became effective on January 1, 1982. Currently, RTC section 6829, subdivision (a), provides that “[u]pon the termination, dissolution, or abandonment of the business of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company [(hereafter entity)], any officer, member, manager, partner, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax, or who is under a duty to act for the [entity] in complying with any requirement of [the Sales and Use Tax Law (RTC, § 6001 et seq.)] [(hereafter responsible person)], shall . . . be personally liable for any unpaid taxes and interest and penalties on those taxes, if the [responsible person] willfully fails to pay or to cause to be paid any taxes due from the [entity].” RTC section 6829, subdivision (b), limits a responsible person’s liability to “taxes that became due during the period he or she had the control, supervision, responsibility, or duty to act for the” entity, “plus interest and penalties on those taxes.” RTC section 6829, subdivision (c), also requires that the Board establish that the taxes relate to transactions in which the entity “included [sales] tax reimbursement in the selling price of, or added [sales] tax reimbursement to the selling price of, tangible personal property sold in the conduct of its business, or [the entity] consumed tangible personal property and failed to pay the [use] tax to the seller or has included use tax on

the billing and collected the use tax or has issued a receipt for the use tax and failed to report and pay [the] use tax.” RTC section 6829, subdivision (d), defines the phrase “willfully fails to pay or to cause to be paid” to mean “that the failure was the result of an intentional, conscious, and voluntary course of action.” RTC section 6829, subdivisions (e) and (f), respectively require a responsible person’s liability to be collected by a NOD issued under chapter 5 (commencing with RTC § 6451) of the Sales and Use Tax Law and establish the statute of limitations for issuing a timely NOD to a responsible person.

The Board adopted Regulation 1702.5 in 1996 to implement, interpret, and make specific RTC section 6829, including to provide additional guidance regarding when a person can be held personally liable for the unpaid liabilities of an entity, and the regulation became effective on February 8, 1997. As relevant here, subdivision (a) of the regulation provides the general rule for imposing personal liability under RTC section 6829, subdivisions (a) through (c). Subdivision (b) of the regulation defines the terms “responsible person,” “willful,” and “termination” as follows:

(1) Responsible Person. As used herein, the term “responsible person” means any officer, member, manager, employee, director, shareholder, partner, or other person having control or supervision of, or who is charged with the responsibility for, the filing of returns or the payment of tax or who has a duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company in complying with any provision of the Sales and Use Tax Law. The term “responsible person” does not include any person who would otherwise qualify but is serving in that capacity as an unpaid volunteer for a non-profit organization.

(2) Willful. As used herein, the term “willful” means voluntary, conscious and intentional. A failure to pay or to cause to be paid may be willful even though such failure was not done with a bad purpose or evil motive.

(3) Termination. As used herein, “termination” of the business of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company includes discontinuance or cessation of business activities.

Subdivision (c) of the regulation also provides the statute of limitations for timely issuing a NOD to a responsible person for an entity’s liabilities.

The Board adopted non-substantive changes to Regulation 1702.5 in September 2008, which became effective on January 2, 2009, to make the regulation consistent with amendments adding “partnership,” “limited

partnership,” and “limited liability partnership” to the list of entities in RTC section 6829 and adding the statute of limitations to RTC section 6829, subdivision (f), and the regulation has not been amended or updated since that time.

Effects, Objective, and Benefit of the Proposed Amendments to Regulation 1591

*Need for Clarity and Guidance*

The Board has administered and enforced the provisions of RTC section 6829 for over 30 years and the provisions of Regulation 1702.5 for almost 20 years and, as a result of that experience, the Board and Board staff has obtained specialized knowledge from applying the statute and regulation to varying facts and circumstances. Also, the Board publishes a Compliance Policy and Procedures Manual (CPPM) on its website, which is “an advisory publication providing directions to [Board] staff administering the Sales and Use Tax Law,” and the Board has provided advice to Board staff about the imposition of personal liabilities under RTC section 6829 and Regulation 1702.5 in CPPM sections 764.080–764.180. Based upon the Board’s and Board staff’s experience and the advice in the CPPM, the Board’s Business Taxes Committee (BTC) staff determined that there is an issue (or problem within the meaning of Gov. Code, § 11346.2, subd. (b)(1)) because Regulation 1702.5 does not provide sufficient clarification and guidance regarding all of the Board’s historical legal interpretations of RTC section 6829’s and Regulation 1702.5’s provisions.

A. Liability of a Responsible Person — Regulation 1702.5, subdivision (a)

For a number of years, the Board’s legal interpretation of RTC section 6829 and Regulation 1702.5 has been that a responsible person is only personally liable for an entity’s liabilities arising from the entity’s taxable sales and uses that occurred while the person was a responsible person. (See, e.g., CPPM section 764.140, *Establishing the Elements of an RTC Section 6829 Dual Determination — Responsible Person* [stating that “A responsible person is personally liable only for liabilities arising from taxable sales and uses that occurred while the person was a responsible person”]; and the Petition for Rehearing Summary for Item H1.3., the Petition for Rehearing of David A. Bartel, attached to the public agenda notice (on the Board’s website) for the Board’s September 12–13, 2012, meeting [concluding that under Regulation 1702.5, subdivision (a), petitioner cannot be held liable “for the taxes incurred by [the entity at issue] on its sales made prior to December 7, 2007, when petitioner became responsible”].) In order to provide clarification and guidance regarding this point, BTC staff drafted amendments to Regulation 1702.5, subdivision (a), to clarify that a person shall

“only” be personally liable for an entity’s unpaid liabilities if the Board establishes that, while the person was a responsible person, “as defined in subdivision (b)(1),” the entity made the taxable sales and uses of tangible personal property that gave rise to the liabilities.

B. Definition of “Responsible Person” — Regulation 1702.5, subdivision (b)(1)

Personal liability can only be imposed on a responsible person under RTC section 6829. Regulation 1702.5, subdivision (b)(1), defines a “responsible person” as “any officer, member, manager, employee, director, shareholder, partner, or other person having control or supervision of, or who is charged with the responsibility for, the filing of returns or the payment of tax or who has a duty to act for” an entity “in complying with any provision of the Sales and Use Tax Law.” For a number of years, the Board’s legal interpretation of RTC section 6829 and Regulation 1702.5 has been that a person’s title, in and of itself, is not sufficient to establish that the person is a responsible person. (See, e.g., CPPM section 764.140, *Establishing the Elements of an RTC Section 6829 Dual Determination — Responsible Person* [stating that “The fact that a person possesses a title such as corporate officer, partner, or member, in and of itself, is not grounds for holding the person personally liable”].) In order to provide clarification and guidance regarding this point, BTC staff drafted amendments to the definition of “responsible person,” in Regulation 1702.5, subdivision (b)(1), to clarify that “[t]he fact that a person possesses the title of officer, member, or partner, in and of itself, is not sufficient to establish that the person is a ‘responsible person.’”

C. Definition of “Willful” — Regulation 1702.5, subdivision (b)(2)

Personal liability can only be imposed under RTC section 6829 if a responsible person “willfully fails to pay or to cause to be paid” the taxes due from an entity and RTC section 6829, subdivision (d), expressly defines the phrase “willfully fails to pay or to cause to be paid” to mean “that the failure was the result of an intentional, conscious, and voluntary course of action.” Regulation 1702.5, subdivision (b)(2), currently defines the term “willful” as “voluntary, conscious, and intentional.” It also provides that a “failure to pay or to cause to be paid may be willful even though such failure was not done with a bad purpose or evil motive.” In order to eliminate any unnecessary confusion that might be caused by the slight differences in terminology used in the statute and regulation, BTC staff drafted amendments to revise the first sentence in Regulation 1702.5, subdivision (b)(2), so that it consistently defines the phrase “willfully fails to pay or cause to be paid” using the same definition provided by RTC section 6829, subdivision (d). BTC staffs also drafted amendments to

delete the unnecessary reference to “evil” motives from the second sentence in subdivision (b)(2).

In addition, for a number of years, the Board’s legal interpretation has been that a responsible person “willfully fails to pay or to cause to be paid” taxes when the responsible person had knowledge that the taxes were not being paid, the responsible person had the authority to pay the taxes or cause them to be paid, and the responsible person had the ability to pay the taxes but chose not to. (See, e.g., the first paragraph in CPPM section 764.150, *Establishing the Elements of an RTC Section 6829 Dual Determination — Willfulness*; and the Board Hearing Summary for Item C7, the Petition for Redetermination of Ricky Alan Dumas, attached to the public agenda notice (on the Board’s website) for the Board’s April 22, 2014, meeting [stating that “A person is regarded as having willfully failed to pay taxes, or to cause them to be paid, where he or she had knowledge that the taxes were not being paid and had the authority to pay taxes or cause them to be paid, but failed to do so”].) In order to provide clarification and guidance regarding this point, BTC staff drafted amendments adding a new third sentence to Regulation 1702.5, subdivision (b)(2), and adding new subdivision (b)(2)(A) through (C), to clarify that a person willfully fails to pay taxes or cause them to be paid, only when the Board establishes that the person “knew” or “must have known” that the taxes were not being paid “[a]t the time the taxes came due,” the person had the authority to pay the taxes or cause them to be paid “[a]t the time the taxes came due,” and the person had the ability to pay the taxes, but chose not to, although “the Board need not establish that the actual amount of taxes owed was available at any given time” and “must only establish that funds were, in general, available.”

D. Definition of Termination — Regulation 1702.5, subdivision (b)(3)

Under RTC section 6829, personal liability for an entity’s liabilities can only be imposed on a person after the termination, dissolution, or abandonment of the business of the entity. Regulation 1702.5, subdivision (b)(3), currently defines “termination” of the business of an entity as including the “discontinuance or cessation of business activities.” And, the Board’s legal interpretation of the phrase “business activities” in the regulation has historically been that the phrase refers to activities for which the entity was required to hold a seller’s permit or certificate of registration for the collection of use tax. (See, e.g., CPPM section 764.120, *Establishing the Elements of an RTC Section 6829 Dual Determination — Termination, Dissolution, or Abandonment* [stating that “‘Business activities’ refers to the activities for which the entity was required to hold a seller’s permit or certificate of registration for the col-

lection of use tax”].) In order to provide clarification and guidance regarding this point, BTC staff drafted amendments adding two sentences to the definition of “termination” in Regulation 1702.5, subdivision (b)(3), to clarify that there is a “termination” of an entity’s business if there is a discontinuance or cessation of the business activities for which the entity was required to hold a seller’s permit or certificate of registration for the collection of use tax, and that it does not require more.

E. Burden of Proof and Standard of Proof — Regulation 1702.5, subdivision (d)

Regulation 1702.5 does not provide notice regarding the Board’s long-standing position that the Board has the burden of proof to establish by a preponderance of the evidence all of the requirements to impose personal liability on a person for an entity’s liabilities under RTC section 6829. (See, e.g., CPPM section 764.080 [explaining that when “each of [the] elements is not established, then an NOD for personal liability under RTC section 6829 cannot be issued”]; and CPPM sections 764.090, 764.110, which use the term “more likely than not” in the discussion of section 6829.) In order to provide clarification and guidance regarding this point, BTC staff drafted amendments adding new subdivision (d) to Regulation 1702.5 to provide that the Board has the burden to prove the requirements for personal liability based upon a preponderance of the evidence.

F. Rebuttable Presumption Regulation 1702.5, subdivision (e)

Over the years, the Board and Board staff have learned what types of evidence is typically obtained to support the elements of personal liability under RTC section 6829 and the strength of these types of evidence. In addition, the Board and Board staff have learned what types of persons are generally not personally liable. Based on this knowledge and experience, Board staff recommended adding a rebuttable presumption to Regulation 1702.5 so that staff’s efforts in pursuing personal liability are more focused on those persons, whom prior experience has shown, are generally found to be personally liable based on the evidence. Accordingly, staff recommended adding subdivision (e) to Regulation 1702.5 to include a rebuttable presumption that provides that if the person is not an “officer, member, partner or a manager with an ownership interest in the entity,” the person is presumed to not be personally liable, unless the Board rebuts the presumption with clear and convincing evidence.

*Interested Parties Process*

BTC staff prepared a discussion paper explaining the draft amendments to Regulation 1702.5. BTC staff provided the discussion paper and draft amendments to the interested parties, and on October 22, 2015, BTC staff

conducted an interested parties meeting to discuss the draft amendments.

During and after the interested parties meeting, interested parties expressed some confusion about and did not entirely support the draft language staff included in new subdivision (b)(2)(A) through (C). Based on all input and comments, staff revised the new subdivision to further clarify and explain that a person willfully fails to pay taxes or cause them to be paid, only when the Board establishes that the person had “knowledge” that the taxes were due but not being paid “[o]n or after the date that the taxes came due,” and the person had the authority to pay the taxes or cause them to be paid “[o]n the date the taxes came due.” Staff also deleted the provisions permitting the Board to establish that a person had the ability to pay taxes by establishing that funds were available at some time or “in general.”

Also, following the interested parties meeting, interested parties suggested expanding the rebuttable presumption in new subdivision (e) to apply if the underlying liability stems from a failure to pay use tax due on the consumption of tangible personal property. However, staff concluded that RTC section 6829 generally applies to entities’ use tax liabilities, so staff did not add a presumption regarding use tax liabilities.

BTC staff prepared a second discussion paper explaining the revised draft amendments to Regulation 1702.5. BTC staff provided the discussion paper and revised draft amendments to the interested parties, and on January 7, 2016, BTC staff conducted a second interested parties meeting to discuss the second discussion paper and the revised draft amendments. Staff received one written comment prior to the interested parties meeting in a December 30, 2015, letter from Ms. Patricia Verdugo of Bewley Lassleben & Miller LLP. After the second interested parties meeting, staff also received a letter dated January 21, 2016, from Mr. Jesse McClellan of McClellan Davis, LLC.

In her letter, Ms. Verdugo recommended that the new sentence being added to subdivision (b)(1) be revised to refer to “all titles listed in the first sentence” of the subdivision since staff had omitted references to “manager,” “employee,” “director,” and “shareholder.” Ms. Verdugo recommended that new subdivision (b)(2)(A) through (C) be clarified to require “actual” knowledge that taxes were due and not being paid, and that both paragraphs (A) and (B) start with the phrase “On the date that the taxes came due” to be consistent. Ms. Verdugo recommended that subdivision (d) require the Board to prove that the requirements for personal liability have been satisfied by “clear and convincing evidence.” Ms. Verdugo indicated that she thought the presumption being added to new subdivision (e) needed clarification and should be revised and reformatted as two presumptions, one presumption that applies to “a

person” that “does not have an ownership interest in the entity,” regardless of the person’s title, and another presumption that applies to a person with an ownership interest that is not also an “officer, member, partner, or manager of the entity.”

In his letter, Mr. McClellan supported Ms. Verdugo’s recommendation to replace the “preponderance of the evidence” standard with a “clear and convincing evidence” standard in new subdivision (d). Mr. McClellan also recommended revising staff’s amendments to the definition of “termination” in subdivision (b)(3) to clarify that termination does not occur when the entity “continues the business activities for which it was required to hold a seller’s permit or certificate of registration for the collection of use tax, under a separate permit or registration.”

Staff agreed with Ms. Verdugo that the sentence being added to subdivision (b)(1) should apply to all of the listed titles and revised the sentence to provide that “The fact that a person possesses any of the aforementioned titles, in and of itself, is not sufficient to establish that the person is a ‘responsible person.’” Staff agreed with Ms. Verdugo that new subdivision (b)(1)(A) should be clarified to require “actual” knowledge that taxes were due and not being paid and added the word “actual” to the subdivision.

Based upon all input and comments, staff determined that new subdivision (b)(2)(B) and (C) were still somewhat unclear. Therefore, staff revised subdivision (b)(2)(B) to clarify that the Board must establish that the “responsible person had the authority to pay the taxes or to cause them to be paid (i) on the date that the taxes came due and (ii) when the responsible person had actual knowledge,” that they were due, but not being paid; and revised subdivision (b)(2)(C) to clarify that the Board must establish that “[w]hen the responsible person had actual knowledge” that the taxes were due, but not being paid, “the responsible person had the ability to pay the taxes but chose not to do so.” Based upon all input and comments, staff also revised the definition of termination to clarify that termination refers to the discontinuance or cessation of “all” business activities for which the entity “was required to hold a seller’s permit or certificate of registration for the collection of use tax.”

Staff did not agree with the comments received that the standard of proof should be “clear and convincing evidence” in new subdivision (d) and staff did not change its draft subdivision (d). Also, staff determined that the rebuttable presumption in new subdivision (e) was properly focused and only made minor grammatical changes to the wording of the presumption to clarify that the phrase “with an ownership interest in the entity” only modifies the subdivision’s reference to “manager.”

In addition, based on the interested parties' input and comments, staff determined that it was necessary to emphasize, in the regulation, that an NOD should only be issued to a person for a responsible person liability, once Board staff has established that the regulation's requirements for personal liability against that person have been satisfied. Therefore, staff also added language to that effect to the beginning of the text of current subdivision (c)(1).

*March 30, 2016, Business Taxes Committee Meeting*

Subsequently, staff prepared Formal Issue Paper 16-01 and distributed it to the Board Members, along with BTC staff's revised draft amendments to Regulation 1702.5 (discussed above), for consideration at the Board's March 30, 2016, BTC meeting. The formal issue paper explained and recommended that the Board propose to adopt staff's revised draft amendments to Regulation 1702.5.

At the conclusion of the Board's discussion of Formal Issue Paper 16-01 during the March 30, 2016, BTC meeting, the Board Members unanimously voted to propose the amendments to Regulation 1702.5 recommended in the formal issue paper. The Board determined that the proposed amendments to Regulation 1702.5 are reasonably necessary to have the effect and accomplish the objective of addressing the issue (or problem) with Regulation 1702.5 (discussed above) by providing sufficient clarification and guidance regarding all of the Board's historical legal interpretations of RTC section 6829's and Regulation 1702.5's provisions, ensuring that Board staff's efforts in pursuing personal liability, under RTC section 6829, are more focused on those persons, whom prior experience has shown, are generally found to be personally liable based on the evidence, and only permitting an NOD to be issued to a person for a responsible person liability after Board staff has evidence to satisfy the regulation's requirements for personal liability against that person. The Board anticipates that the proposed amendments to Regulation 1702.5 will promote fairness and benefit potential responsible persons, Board staff, and the Board by providing updated guidance on how and when personal liability may be imposed on a responsible person.

The Board has performed an evaluation of whether the proposed amendments to Regulation 1702.5 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations. This is because there are no other sales and use tax regulations that implement, interpret, and make specific RTC section 6829. In addition, the Board has determined that there are no comparable federal regula-

tions or statutes to Regulation 1702.5 or the proposed amendments to Regulation 1702.5.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1702.5 will not impose a mandate on local agencies or school districts, including a mandate that requires state reimbursement under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY, OR SCHOOL DISTRICT

The Board has determined that the adoption of the proposed amendments to Regulation 1702.5 will result in no direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the proposed amendments to Regulation 1702.5 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to Regulation 1702.5 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

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

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has determined that the proposed amendments to Regulation 1702.5 are not a major regulation, as defined in Government Code section 11342.548 and

California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Regulation 1702.5 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create new businesses or expand businesses currently doing business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to Regulation 1702.5 will not affect the benefits of Regulation 1702.5 to the health and welfare of California residents, worker safety, or the state's environment.

#### NO SIGNIFICANT EFFECT ON HOUSING COSTS

The adoption of the proposed amendments to Regulation 1702.5 will not have a significant effect on housing costs.

#### DETERMINATION REGARDING ALTERNATIVES

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

#### CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Christine Bisauta Castillo, Tax Counsel III (Supervisor), by telephone at (916) 323-2549, by e-mail at [Christine.Bisauta@boe.ca.gov](mailto:Christine.Bisauta@boe.ca.gov), or by mail at State Board of Equalization, Attn: Christine Bisauta Castillo, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at [Richard.Bennion@boe.ca.gov](mailto:Richard.Bennion@boe.ca.gov), or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA

94279-0080. Mr. Bennion is the designated backup contact person to Ms. Castillo.

#### WRITTEN COMMENT PERIOD

The written comment period ends at 9:00 a.m. on August 30 or 31 or September 1, 2016, or as soon thereafter as the Board begins the public hearing regarding the adoption of the proposed amendments to Regulation 1702.5 during the August 30-31, and September 1, 2016, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Regulation 1702.5. The Board will only consider written comments received by that time.

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an underscored and strikethrough version of the text of Regulation 1702.5 illustrating the express terms of the proposed amendments. The Board has also prepared an initial statement of reasons for the adoption of the proposed amendments to Regulation 1702.5, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's Website at [www.boe.ca.gov](http://www.boe.ca.gov).

#### SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Regulation 1702.5 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regula-

tion will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT  
OF REASONS

If the Board adopts the proposed amendments to Regulation 1702.5, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board’s Website at [www.boe.ca.gov](http://www.boe.ca.gov).

**TITLE 19. GOVERNOR’S OFFICE OF  
EMERGENCY SERVICES**

New Article 6.5 of the California Accidental Release Prevention (CalARP) Program  
Program 4 for Petroleum Refineries

**NOTICE IS HEREBY GIVEN** that the California Governor’s Office of Emergency Services (Cal OES) proposes to adopt the proposed regulations governing the California Accidental Release Prevention Program for petroleum refineries. These regulations are found in Chapter 4.5, California Accidental Release Prevention (CalARP) Program, commencing with Section 2735.1 of Title 19 of the California Code of Regulations (CCR).

PUBLIC HEARING

A public hearing is not scheduled at this time. Cal OES will hold a public hearing on or after August 29, 2016 if any interested person or their duly authorized representative requests a public hearing by submitting a written request to the contact person identified in this notice no later than 5:00 p.m. fifteen (15) days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person may present statements or arguments in writing to Cal OES. The written comment period commences on July 15, 2016 and closes at 5:00 p.m. on August 29, 2016. Cal OES will not consider comments received after that deadline unless Cal OES announces an extension of the time in which to submit

written comments. Written comments can be submitted as follows:

- By mail to Jack Harrah, California Governor’s Office of Emergency Services, 3650 Schriever Avenue, Mather, CA 95655; or
- By fax at (916) 845–8734; or
- By e–mail to [jack.harrah@caloes.ca.gov](mailto:jack.harrah@caloes.ca.gov).

We encourage you to submit comments in electronic form, rather than in paper form. Please include the words “Refinery Safety and Prevention Regulations” in the subject line of the email.

AUTHORITY AND REFERENCE

Chapter 6.95, Article 2 of the California Health & Safety Code establishes Cal OES as the agency in the state to manage the CalARP Program. In addition, Health & Safety Code Section 25531 requires the adoption of standards that are at least as effective as the federal Risk Management Program (RMP) standards under the Clean Air Act 112(r) and Title 40 of the Code of Federal Regulations Part 68. The proposed regulations implement, interpret, and make specific Government Code Section 8585 and Health and Safety Code Sections 25531 and 25534.05 as recommended by the Governor’s Interagency Working Group on Refinery Safety in the report, “Improving Public and Worker Safety at Oil Refineries.”

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

The federal Clean Air Act Amendments of 1990 [42 U.S.C. §7412(r)] directed the federal Occupational Safety and Health Administration (OSHA) and the United States Environmental Protection Agency (EPA) to develop regulations to prevent accidental chemical releases. These became known as the Process Safety Management (PSM) and Risk Management Plan (RMP) regulations, respectively. On February 24, 1992, OSHA published a Final Rule for *Process Safety Management of Highly Hazardous Chemicals* (57, Fed. Reg., 6356, February 24, 1992), codified as 29 CFR Section 1910.119.

Cal OES subsequently adopted a CalARP Program standard (California Code of Regulations Title 19, Chapter 4.5) pursuant to its mandate to adopt standards that are at least as effective as federal standards. Chapter 4.5 is substantially the same as the federal counterpart, in that it addresses the prevention of catastrophic releases of toxic, reactive, flammable, and explosive chemicals and applies to stationary sources that use a process involving a particular chemical (or chemicals) at or above certain threshold quantities (listed in Appendix A) or a flammable liquid or gas as defined in subsection (c) of the regulation.

Following a chemical release and fire at the Chevron refinery in Richmond, CA, on August 6, 2012, the Governor's Interagency Working Group on Refinery Safety prepared a report (Governor's Report) raising concerns and recommendations about the safety of California's oil refineries. The Governor's Report recommended revisions to the state's PSM regulations and CalARP Program regulations as described in more detail below.

In accordance with the recommendations of the Governor's Report, Cal OES is proposing to promulgate new CalARP Program regulations for petroleum refineries. The proposal implements the recommendations of the Governor's Report and other CalARP Program elements that safety experts have learned over the past two decades are essential to the safe operation of a refinery and include: applying a *hierarchy of controls* to implement first- and second-order inherent safety measures; conducting *damage mechanism reviews*; applying rigorous *safeguard protection analyses*; integrating *human factors* and *safety culture assessments* into safety planning; *involving front-line employees* in decision-making; conducting *root-cause analysis* following significant incidents; and performing comprehensive *process hazard analyses*.

Some refineries operating in California have adopted many of these practices over the past decade, with significant improvements in safety performance; however, the industry continues to experience significant upset events.<sup>1</sup>

The regulatory proposal sets safety performance standards for refinery employers and ensures that those standards are met through improvements in transparency, accountability, worker participation, and enforcement.

Cal OES evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(C) and determined that there were several anticipated benefits of the regulations. The proposed regulations may improve safety at California refineries, which will in turn result in fewer major process incidents and fewer releases of hazardous materials from refineries. Because the number of major refinery incidents may be reduced under the proposed regulations, they could provide safety and environmental benefits to workers and the public in nearby communities as well as other economic benefits for businesses. The proposed regulations will also increase the openness and transparency of business and government.

Cal OES evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of CalARP regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Health and Safety Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all CalARP rulemaking be channeled through Cal OES.

#### THE GOVERNOR'S REPORT

Governor Jerry Brown convened the Interagency Working Group on Refinery Safety, consisting of representatives from thirteen state, federal, and local agencies and departments. The Working Group examined strategies to improve public and worker safety through enhanced oversight of refineries and strengthen emergency preparedness in anticipation of any future incident. The Working Group issued its report in February 2014, recommending changes in the CalARP Program standard that would require petroleum refineries to:

1. Implement inherently safer systems to the greatest extent feasible
2. Perform periodic safety culture assessments
3. Incorporate damage mechanism hazard reviews into process hazard analyses
4. Conduct root-cause analyses after significant accidents or releases
5. Account for human factors and organizational changes
6. Use structured methods, such as layer of protection analysis, to ensure adequate safeguards in process hazard analyses.

The Governor's Office directed the relevant agencies, including Cal OES, to respond to these and other recommendations in the report with regulatory changes.

New regulatory requirements to implement these and other recommendations appear in the 21 subsections of the proposed CalARP Program regulation for petroleum refineries, Article 6.5 of Chapter 4.5 of Title 19, sections 2762.0.1 through 2762.17. These changes represent a comprehensive Accidental Release Program for the state's refinery sector that prioritizes implementation of inherently safer systems to reduce the risk of incidents and eliminate or minimize accidental releases to which the environment or public may be exposed.

#### STAKEHOLDER INPUT

In developing revisions to the CalARP Program regulations, Cal OES conducted extensive outreach to in-

<sup>1</sup> U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, *Energy Assurance Daily*, available at <http://www.oe.netl.doe.gov/ead.aspx> (accessed December 9, 2014). (Note: For weekly summaries, go to "Download EADs" and scroll to "Petroleum.")

dustry, refinery workers, community-based organizations, and the public. During 2014–15, 26 meetings and hearings were held to discuss refinery safety regulations and elicit participant input. Four of these meetings involved DIR’s PSM Advisory Committee, whose membership comprises invited representatives of labor and industry. All Advisory Committee meetings were open to the public. In addition, pre-regulatory drafts of the proposed regulations were circulated and publicly posted for comment on September 24, 2015 and October 26, 2015.

The final text of the proposed regulations incorporates the significant improvements suggested by labor, industry, trade associations, academic researchers, local, state, and federal government agencies, and the public.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

**Cost or Savings to any State Agency:**

Cal OES and Cal EPA will enforce the proposed regulations and have contemplated the associated cost of enforcement. We will implement the proposed regulations using currently approved resources and staffing levels. If ongoing monitoring of workload and performance indicates a need for additional resources to meet the requirements, a budget change proposal will be prepared and submitted in accordance with standard Department of Finance protocol.

**Cost to any Local Agency or School District which must be reimbursed in Accordance with Government Code Sections 17500 through 17630:**

None.

**Other Nondiscretionary Cost or Savings Imposed on Local Agencies:**

None.

**Cost or Savings in Federal Funding to the State:**

None.

**Cost Impacts on a Representative Private Person or Business:**

In recent years, gasoline consumption in California has averaged about 14.5 billion gallons per year. California requires a unique reformulated gasoline blend to meet the state’s pollution control requirements. Gasoline made in other states to meet other state and federal pollution requirements does not meet California standards. Consequently, all gasoline consumed in California is typically refined in the state. Therefore, California refiners’ cost of implementing the proposed regula-

tions can be distributed over the cost to consumers of purchasing 14.5 billion gallons of California gasoline.

Spreading the \$58 million estimated cost of the regulations across this volume of sales indicates an increase in price of about \$0.004, or slightly less than half a cent per gallon. The lower estimate of \$20 million reduces this impact to \$0.0014 or about 1/7 of a cent, while the upper estimate of \$183 million increases the impact to \$0.013, or 1.3 cents per gallon. Aggregating this to calculate the impact on the average adult Californian yields an estimated cost per person of about \$2 per year, with a low estimate of \$0.68 and a high estimate of \$6.20 per person per year.

**Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete:**

Cal OES makes an initial determination that the action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The estimated costs of the proposed regulations are relatively small compared to the size of the industry (\$131 billion per year and the fourth-largest industry by output in the state).

Based on the economic modeling, refiners in California complying with the proposed CalARP regulations will experience the advantage of cost avoidance due to the reduced likelihood and severity of a major refinery incident, such as the ExxonMobil incident in Torrance in 2015. This will reduce the cost associated with lost output, which in the ExxonMobil incident had an estimated value of \$323 million (not including the additional equipment repair costs, which could not be estimated).

**Significant Effect on Housing Costs:**

None.

DETERMINATION OF MANDATE

Cal OES has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630.

SMALL BUSINESS DETERMINATION

Cal OES has determined that the proposed regulation does not affect small businesses because the impacted businesses are not considered small businesses. See Government Code section 11342.610(b)(9).

RESULTS OF THE STANDARDIZED  
REGULATORY ECONOMIC  
IMPACT ANALYSIS

**The creation or elimination of jobs in the state.**

The proposed PSM and CalARP regulations will create an estimated 158 jobs in the state’s petroleum refining sector (between 57 and 325 jobs), based on an estimated total compensation (generated by macroeconomic analysis software) in the California refinery sector of \$334,000 per employee and a total increase in labor costs of \$58 million. There is no associated elimination of jobs anticipated.

**The creation of new businesses or the elimination of existing businesses in the state.**

There is no anticipated creation or elimination of businesses in California.

**The competitive advantages or disadvantages for businesses currently doing business in the state.**

Based on the economic modeling, refiners in California complying with the proposed CalARP regulations will experience the advantage of cost avoidance due to the reduced likelihood and severity of a major refinery incident, such as the ExxonMobil incident in Torrance in 2015. This will reduce the cost associated with lost output, which in the ExxonMobil incident had an estimated value of \$323 million (not including the additional equipment repair costs, which could not be estimated).

**The increase or decrease of investment in the state.**

Multiple stakeholder and advisory meetings with labor, industry, advocacy groups, and other agencies have contributed to the development of the proposed regulations. All input has been considered, and the current proposed regulations reflect a balanced, enforceable, and prevention-focused approach to reducing risks in this industry. There is no indication that the regulations will affect investment in California.

Given the expected annual loss of \$800 million to the California economy due to a costly major refinery incident, the proposed regulations will have to reduce the risk of a costly major incident by 7.3% to be economically justified. Additional sensitivity analysis was conducted to assess how varying expected amounts of annual loss affect the critical risk reduction values.

**The incentives for innovation in products, materials, or processes.**

The proposed regulations require the establishment of several programs that drive refiners to analyze and implement processes and select materials that offer the highest levels of risk reduction. The inherent safety requirements promote an approach to safety that focuses on eliminating or reducing the hazards associated with

certain conditions. A process is inherently safer if it eliminates or reduces the hazards associated with materials or operations used in the process, and this elimination or reduction is permanent and inseparable from the material or operation. A process with eliminated or reduced hazards is described as inherently safer than a process with only passive, active, or procedural safeguards. The process of identifying and implementing inherent safety in a specific context is known as “inherently safer design.” Examples of how innovation is incentivized are described in the prioritized approaches to safety:

- First-Order Inherent Safety Measure—a measure that eliminates a hazard. Changes in the chemistry of a process that eliminate the hazards of a chemical are usually considered first-order inherent safety measures — for example, by substituting a toxic chemical with an alternative chemical that can serve the same function but is nontoxic.
- Second-Order Inherent Safety Measure—a measure that effectively reduces risk by reducing the severity of a hazard or the likelihood of a release, without the use of additional safety devices. Changes in process variables to minimize, moderate, and simplify a process are usually considered second-order inherent safety measures—for example, by redesigning a high-pressure, high-temperature system to operate at ambient temperatures and levels of pressure.

**The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, environment and quality of life, and any other benefits identified by the agency.**

The proposed regulations may improve safety at California refineries, which will in turn result in fewer major process incidents and fewer releases of hazardous materials from refineries. Because the number of major refinery incidents may be reduced under the proposed regulations, they could provide safety and environmental benefits to workers and the public in nearby communities as well as other economic benefits for businesses. The proposed regulations will also increase the openness and transparency of business and government.

**Department of Finance Comments and Responses**

1. Please specify the costs of implementing and enforcing the proposed regulations for state level agencies.

As documented in the STD 399: Fiscal Impact Statement B.4.: Cal OES and Cal EPA will implement the proposed regulations using currently approved resources and staffing levels. If additional resources are

determined to be necessary, a budget change proposal will be submitted to DOF.

2. What can be shared with readers regarding the efficacy of the Safety Case Regime that is proposed as Alternative #2?

As noted in the “Improving Public and Worker Safety at Oil Refineries” Report of Governor Brown’s Interagency Working Group on Refinery Safety:

The RAND Corporation prepared a memo, Refinery Process Safety Performance and Models of Government–Industry Relations, discussing some of the issues involved in considering new models of industry regulation. RAND suggested that Cal/OSHA could move in the direction of the safety case approach, but noted that evidence to date on whether the safety case has improved performance is mixed, and that implementing this approach would require significantly greater division resources than currently employed. The memo suggests that Cal/OSHA adopt an incremental approach for transitioning to the safety case, perhaps by expanding the Contra Costa County Industrial Safety Ordinance. The memo also discussed the desirability of developing lagging and leading indicators of refinery performance and suggested that this be done through a collaborative industry–labor process.

(<http://www.calepa.ca.gov/Publications/Reports/2014/RefineryRpt.pdf>, p. 33). RAND Corporation testimony is available at

[http://www.rand.org/content/dam/rand/pubs/testimonies/CT300/CT392/RAND\\_CT392.pdf](http://www.rand.org/content/dam/rand/pubs/testimonies/CT300/CT392/RAND_CT392.pdf) (see .5 in particular for relevant discussion).

## CONSIDERATION OF ALTERNATIVES

### Alternative 1: Maintain status quo

One alternative considered was continued enforcement of petroleum refineries under the existing CalARP regulations without revising the requirements. In the past four years, there have been two major incidents (Chevron in 2012 and Exxon in 2015). Per the Governor’s Task Force Report, existing law, regulation, and level of staffing were unable to forestall the Chevron incident and more needs to be done to prevent future incidents of similar or worse consequences. The costs associated with the continued enforcement or status quo under the existing regulation reflect an unknown, but anticipated, number of incidents that may happen in the absence of the requirements and tools provided in the proposed new CalARP regulation. These consequences

are largely untenable, given the levels of incidents experienced in the recent years.

### Alternative 2: Safety Case Model

California’s existing model of work safety regulation in process safety management emphasizes investigating serious accidents that have occurred. As examined by the RAND Center for Health and Safety in the Workplace, over the last 25 years, a perspective has developed that argues that the models currently used — nationwide and in California — are inadequate to ensure safety at very complex facilities, especially those characterized by risks that have low frequency but very high disaster potential. This perspective emerged first in Europe, triggered by disasters in the North Sea and at Seveso (RAND 2013). The former led the United Kingdom and Norway to develop a “safety case” approach to regulating off–shore oil platforms in the 1990s, an approach that later expanded to other high–hazard process industries.

The “safety case” approach involves considerably more resources in terms of time and agency inspectors. The Hazardous Facilities Unit, which oversees the United Kingdom with safety cases, typically conducts several audits each year at refineries to assess their safety case activities. The safety case model requires facilities to explain what they will do in order to try to ensure their safety. The regulatory authority is charged with determining whether a facility’s explanation or effort is acceptable or effective. Most regulatory scrutiny goes to auditing the facility to determine whether it has been carrying out the activities called for in the safety case document. Although some contend that the safety case process leads to initial gains in hazard recognition and abatement, it must remain “a living document” in order to fulfill its objectives.

A concern with the safety case approach is that describing and documenting how a refinery will manage risks is not equivalent with actually managing risks. Further, augmenting oversight from the existing regulations to a level prescribed by the “safety case” approach would be largely infeasible given the related requisite resource demands for regulatory authorities. This approach is estimated to require a fourteen–fold increase in staff for Cal OES, Cal EPA, and the local CUPAs. Additional costs for refineries would also be anticipated, given the significant changes this would necessitate in regulatory dynamics. For these reasons, the “safety case” model is not considered a reasonable alternative to the proposal.

In accordance with Government Code Section 11346.5(a)(13), Cal OES must determine that no reasonable alternative considered by Cal OES or that has otherwise been identified and brought to the attention of Cal OES would be more effective in carrying out the

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

Cal OES invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Jack Harrah (Senior Emergency Services Coordinator) at [Jack.Harrah@caloes.ca.gov](mailto:Jack.Harrah@caloes.ca.gov) or Michelle Church-Reeves (Staff Counsel) at [Michelle.Church-Reeves@caloes.ca.gov](mailto:Michelle.Church-Reeves@caloes.ca.gov), or by mail at the Governor's Office of Emergency Services, 3650 Schriever Avenue, Mather, CA 95655. Phone inquiries may be directed to (916) 845-8972.

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

Cal OES will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained online at <http://www.caloes.ca.gov/cal-oes-divisions/fire-rescue/hazardous-materials/california-accidental-release-prevention> or by contacting Ms. Church-Reeves or Mr. Harrah at the address or telephone number listed above.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Church-Reeves or Mr. Harrah at the address or telephone number listed above or via the internet.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

the proposed regulations substantially as described in this notice. If Cal OES makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before Cal OES adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Church-Reeves or Mr. Harrah at the address or telephone number listed above. Cal OES will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

#### TITLE 22. DEPARTMENT OF TOXIC SUBSTANCE CONTROL

##### *SAFER CONSUMER PRODUCTS REGULATIONS — Listing Children's Foam-Padded Sleeping Products Containing TDCPP or TCEP As a Priority Product*

**Department Reference Number: R-2014-03**

**Office of Administrative Law Notice File  
Number: Z2016-0627-03**

**NOTICE IS HEREBY GIVEN** that the Department of Toxic Substances Control (DTSC) proposes to amend the California Code of Regulations, Title 22 (22 CCR), Division 4.5, Chapter 55 to adopt article 11 and sections 69511 and 69511.1. This proposed amendment pertains to establishing a Priority Products list and identification of a Priority Product under the Safer Consumer Products (SCP) regulations, approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on August 28, 2013 (effective date: 10/01/2013; OAL reference number: Z-2012-0717-04).

#### PUBLIC HEARING

DTSC will hold a public hearing on the proposed regulation on August 29, 2016, at the Cal/EPA Building, located at 1001 "I" Street, Sacramento, California. The hearing will convene Training Room 1 East/West at which time any person(s) may present statements or arguments, orally or in writing, relevant to this proposal described in the Informative Digest. The public hearing will begin at 10:00 a.m. and will remain open until 12:00 p.m. or until attendees finish presenting their comments, whichever occurs first.

Representatives of DTSC will preside at the hearing. DTSC requests persons who wish to speak to register

before the hearing. Pre-hearing registration is conducted at the location of the hearing from 9:00 a.m. until the hearing commences. Registered persons will be heard in the order of their registration. Anyone else wishing to speak at the hearing will have an opportunity after all registered persons have been heard.

All visitors are required to sign in prior to attending any meeting at the Visitor and Environmental Services Center, located just inside main entrance of the building, to the left of the security guard post. Please allow adequate time to sign in and receive a visitor badge before the public hearing begins.

#### NOTICE PERTAINING TO ACCESSIBILITY & REASONABLE ACCOMMODATION

All documents related to these regulations can be made available in alternate format (i.e., Braille, large print, etc.) or in another language, as requested, in accordance with state and federal law. Further, to ensure the public has equal access to all available services and information, DTSC will provide disability-related reasonable accommodations, translator, or interpreter needs, upon request. For assistance, please contact the staff person below as soon as possible, no later than 10 business days prior to the scheduled hearing:

Ms. Lisa Quagliaroli  
 Safer Products and Workplaces Program  
 Department of Toxic Substances Control  
 P.O. Box 806  
 Sacramento, California 95812-0806  
 Email: [Lisa.quagliaroli@dtsc.ca.gov](mailto:Lisa.quagliaroli@dtsc.ca.gov)  
 Phone number: (916) 445-3077

TTY/TDD Speech-to-Speech users may dial 711 for the California Relay Service

#### WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard-copy formats.

Written comments may be submitted electronically through the Safer Consumer Products Information Management System (CalSAFER) at: <https://calsafes.dtsca.gov/>. Please direct hard-copy written comments to:

Mr. Benjamin Molin  
 Office of Legal Affairs  
 Department of Toxic Substances Control  
 1001 I Street  
 Sacramento, California 95812-0806  
 Fax Number: (916) 323-5542  
 Phone Number: (916) 322-4882

The written comment period will close at 5:00 p.m. PST on August 29, 2016. DTSC will only consider comments received by either means on or before this date and time or submitted during the public hearing.

#### AUTHORITY AND REFERENCE

##### Authority

These regulations are being adopted under the following authorities:

Health and Safety Code (HSC) section 25252 authorizes and requires DTSC to adopt regulations to establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered a Chemical of Concern. This section also directs DTSC to reference and use available information from various sources, but does not limit DTSC to use only this information

HSC section 25253 authorizes and requires DTSC to adopt regulations that establish a process for evaluating Chemicals of Concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by a Chemical of Concern.

HSC section 58012 (added by Gov. Reorg. Plan No. 1, §146, eff. July 17, 1991) grants DTSC authority to adopt regulations to execute its duties.

##### Reference

These regulations implement, interpret, or make specific the following statutes:

HSC sections 25252 and 25253.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### Policy Statement Overview

DTSC proposes to amend the SCP regulations (22 CCR sections 69501-69510) to adopt the Priority Products list (article 11), and to add one Priority Product to that list (sections 69511 and 69511.1).

##### Proposed Regulation

The proposed regulation would amend the SCP regulations (22 CCR sections 69501-69510) to adopt the Priority Products list (article 11), and to add one Priority Product to that list (sections 69511 and 69511.1). DTSC

identified and prioritized children's foam-padded sleeping products containing tris(1,3-dichloro-2-propyl) phosphate (TDCPP) or tris(2-chloroethyl) phosphate (TCEP) as a Priority Product using the processes outlined in sections 69503.2, 69503.3, 69503.5, and 69503.6 of the SCP regulations.

DTSC proposes to define "Children's foam-padded sleeping products containing TDCPP or TCEP" as products designed for children, toddlers, babies, or infants to nap or sleep on that incorporate polyurethane foam mats, pads, or pillows that contain the chemical flame retardants TDCPP or TCEP. This proposed definition includes the following sub-products: nap mats, soft-sided portable cribs, play pens, play yards, infant travel beds, portable infant sleepers, bassinets, nap cots, infant sleep positioners, bedside sleepers, co-sleepers, and baby or toddler foam pillows. The identified sub-products are all used for sleeping, and this common attribute is the basis for their inclusion in this Priority Product. Achieving a very clear definition of the Priority Product will improve compliance with this regulation.

DTSC determined that there is potential exposure to the Chemicals of Concern (the chemical flame retardants TDCPP and TCEP) in this product, which may contribute to or cause significant or widespread adverse impacts to people, particularly to children and workers. Due to the potential for adverse impacts from exposure, DTSC is proposing to list this product-chemical combination as a Priority Product.

#### Benefits

The Priority Products list regulation is part of a comprehensive, state-level effort to find safer alternatives to hazardous chemicals. The Priority Products list will set in motion a preemptive strategy to reduce the use of toxic substances in the design of products and industrial processes with the aim of creating safer and sustainable products that do not threaten human health or persist in the environment. The use of fewer hazardous substances means healthier air quality, cleaner drinking water, and safer homes and workplaces. In meeting the requirements of the Priority Products listing, manufacturers may be compelled to conduct an alternative analysis (AA) to identify viable safer alternatives to hazardous chemicals used in consumer products. Further, this rulemaking provides clarity to responsible entities regarding the product-chemical combinations that are a part of the Priority Product list.

The principle benefit of this proposed regulation is decreased exposure to TDCPP or TCEP in children's foam-padded sleeping products to children, families, and childcare providers. Removing TDCPP and TCEP from children's foam-padded sleeping products will lead to decreased concentrations of these chemicals in

homes, day care centers, and schools. By reducing the potential for exposure to these flame retardants, particularly to children and employees of day care centers and schools, the potential for adverse health effects such as cancer, reproductive toxicity, developmental toxicity, and neurotoxicity will also be reduced. Because people are exposed to chemical flame retardants through the use of other common household products, including furniture and consumer electronics, DTSC is unable to quantify the potential health benefits that would accrue to children, families, and employees as a result of this regulation.

Flame retardant-free foam is widely available, costs less, and has the same functional use as foam made with flame retardants. Additionally, there are no legal requirements for manufacturers to include chemical flame retardants in children's foam-padded sleeping products covered by the proposed regulation. Due to availability and potential cost savings, DTSC anticipates that manufacturers will choose to use flame retardant-free foam in their products rather than completing an AA. Therefore, there will also likely be some cost savings, as well as potential profit increases, for children's product manufacturers who opt to manufacture their foam-padded sleeping products using flame retardant-free foam.

#### Summary of Existing Statutes and Regulations

The SCP regulations, authorized by HSC section 25253, apply to all consumer products placed into the stream of commerce in California. This regulatory framework established a science-based process to:

- identify Candidate Chemicals;
- identify and prioritize product-chemical combinations as Priority Products that include Chemicals of Concern; and
- analyze alternatives for improving the safety of consumer products.

If no safer alternatives to the Chemicals of Concern exist, DTSC can require responsible entities to implement a range of regulatory actions to ensure the protection of human health and the environment.

#### Determination of Inconsistency/Incompatibility with Existing State Regulations

DTSC determined that this proposed regulation is not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that relate to or affect this regulation, DTSC concluded that the only regulations concerning the identification and regulation of Priority Products are found in the SCP program in California. DTSC searched Titles 19 and 22 of the California Code of Regulations using the keywords "chemicals in consumer products," "Chemicals

of Concern,” and “priority products” via Westlaw and found no conflicting state regulations.

Determination of Inconsistency/Incompatibility with Existing Federal Regulations

As discussed below, the proposed adoption of children’s foam-padded sleeping products containing TDCPP or TCEP as a Priority Product in regulation does not duplicate nor conflict with existing federal law because the sub-products of this Priority Product are not required to meet flame retardant standards.

The principle federal law related to flame retardant standards for sleeping products is administered by the U.S. Consumer Product Safety Commission (CPSC). This law regulates mattresses and mattress pads under Title 16 Code of Federal Regulations Part 1632 and Part 1633 (16 CFR 1632 and 1633). Part 1632 is the standard for the flammability of mattresses and mattress pads, while Part 1633 contains the standard for flammability (open flame) for mattress sets. Bed mattresses, including mattresses for hard-sided cribs, are covered by 16 CFR 1632 and 1633. The requirements of 16 CFR 1632 and 1633 are performance-based. The regulation does not specify the use of flame retardant chemicals to meet the requirements. The regulation allows manufacturers to choose the means of complying with the regulation, which may include the use of inherently flame resistant materials, barriers, or flame retardant chemicals, while requiring that mattresses meet strict performance requirements

CPSC does not regulate “juvenile product pads” and provides examples of the exempt category in 16 CFR 1632.1(a)(2). Exempt products include “car bed pads, carriage pads, basket pads, infant carrier and lounge pads, dressing table pads, stroller pads, crib bumpers, and playpen pads” (16 CFR 1632). Each of these “juvenile product pads” is further defined in 16 CFR 1632.8 (16 CFR 1632). Mattresses in portable cribs with mesh or soft sides are not regulated under 16 CFR 1632.

Part 571 Federal Motor Vehicle Safety Standards, Standard No. 302 specifies the flame retardant requirements for interior materials of motor vehicles including child restraint systems (i.e., car seats). Car seats have been exempted from the definition of children’s foam-padded sleeping products; therefore, there is no conflict with this standard.

DISCLOSURE REGARDING THE PROPOSED ACTION

**Mandates on Local Agencies or School Districts**

DTSC determined that adoption of this regulation would not impose a local mandate or result in costs subject to reimbursement pursuant to Part 7 of Division 4, commencing with section 17500, of the Government

Code or other nondiscretionary costs or savings to local agencies.

**Costs or Savings to State or Local Agencies, or School Districts Subject to Reimbursement**

DTSC determined that adoption of this regulation will not result in costs or savings for any state or local agency or school district that is required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code or other nondiscretionary costs or savings imposed on local agencies.

**Cost or Savings in Federal Funding to the State**

DTSC determined that adoption of this regulation will not result in any decrease or increase in federal funds to California.

**Determination of Adverse Statewide Economic Impact**

DTSC made an initial determination that the adoption of these regulations may have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. DTSC has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

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

Types of Businesses Affected

Manufacturers of the listed Priority Products have the principle duty to comply with the notification and reporting requirements. If manufacturers do not comply, then the importers of the listed Priority Products (if any) have the duty to comply. Retailers or assemblers of the listed Priority Products would be required to comply with the requirements only if the manufacturers and importers (if any) fail to comply, and only after DTSC posts this information to the Failure to Comply List on DTSC’s website [section 69501.2(a)(1)].

Reporting Requirements

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), DTSC found that the reporting requirements of the proposed regulatory action, which apply to businesses, are necessary for the health, safety, and welfare of the people of the State of

California. The specific reporting requirements and forms are:

- Priority Product Notification [section 69503.7]
- Removal/Replacement Notifications:
  - Chemical of Concern Removal Intent Notification [section 69505.2]
  - Chemical of Concern Removal Confirmation Notification [section 69505.2]
  - Product Removal Intent Notification [section 69505.2]
  - Product Removal Confirmation Notification [section 69505.2]
  - Product–Chemical Replacement Intent Notification [section 69505.2]
  - Product–Chemical Replacement Confirmation Notification [section 69505.2]
  - Product Cease Ordering Notification [section 69501.2(b)(2)(B)]
- Alternatives Analysis Notifications and Reports:
  - Alternative Analysis Threshold Notification [section 69505.3]
  - Alternative Analysis Extension [section 69505.1(c)]
  - Preliminary AA Report [section 69505.4(a)(2), section 69505.5, section 69505.1(b)(2)(A), section 69505.7]
  - Final Alternative Analysis Report [section 69505.4(a)(3), section 69505.6, section 69505.1(b)(2)(B), section 69505.7]
  - Abridged Alternative Analysis Report [section 69505.4(b)]
  - Alternate Alternative Analysis Work Plan [section 69505.4(c)]

The regulatory requirements applicable to responsible entities may be fulfilled by a consortium, trade association, public–private partnership, or other entity acting on behalf of, or in lieu of, one or more responsible entities. This provision does not apply to the Priority Product Notification or Alternatives Analysis Threshold Exemption Notification requirements [section 69501.2(a)(2)]

**Results of Regulatory Economic Impact Analysis**

This regulation will not result in the creation or elimination of jobs in the children’s sleeping product manufacturing industry or the foam manufacturing industry. Flame retardant–free polyurethane foam is readily available for purchase and use by children’s product manufacturers, and it can be used without changes to current manufacturing processes. Additionally, because it costs less than foam with flame retardants, manufacturers may experience some cost savings, as well as potential profit increases. In addition, due to DTSC’s

CalSAFER online information management system and streamlined reporting requirements, there will be no need for extra workers as a result of the regulatory reporting requirements.

This regulation will not result in the creation, elimination, or expansion of California businesses. Flame retardant–free polyurethane foam is readily available for purchase and use by children’s product manufacturers, and it can be used without changes to current manufacturing processes. Additionally, because it costs less than foam with flame retardants, manufacturers may experience some cost savings, as well as potential profit increases.

Benefits of the Proposed Action

The broad objective of the SCP regulations, adopted in October 2013, is a comprehensive, state–level effort to find safer alternatives to hazardous chemicals. The use of fewer hazardous chemicals reduces the potential for adverse impacts to the people of California and the environment. By listing Priority Products that contain Chemicals of Concern in regulation, DTSC sets in motion a preemptive strategy to reduce the use of toxic substances in product design and industrial processes with the aim of creating safer, more sustainable products that do not threaten human health nor persist in the environment. The use of fewer hazardous substances means healthier air quality, cleaner drinking water, and safer homes, schools, day care centers, and workplaces.

The direct benefit of this proposed regulation is decreased exposure to TDCPP or TCEP in children’s foam–padded sleeping products to children, families, and childcare givers. Flame retardant–free foam is widely available, costs less, and has the same functional use as foam made with flame retardants. Additionally, children’s foam–padded sleeping products are not required to meet fire safety standards. Because there are no barriers to the use of flame retardant–free foam in these products, DTSC anticipates that manufacturers will switch to flame retardant–free foam rather than completing an AA.

Removing TDCPP and TCEP from children’s foam–padded sleeping products will lead to decreased concentrations of these chemicals in homes, day care centers, and schools. Reducing exposure to these flame retardants will reduce the potential for people, particularly children and the people who live and work with them, to experience adverse health effects such as cancer, reproductive toxicity, developmental toxicity, and neurotoxicity.

Flame retardant–free foam costs less than foam with flame retardants; therefore, there will likely be some cost savings, as well as potential profit increases, for children’s sleeping products manufacturers who opt to use flame retardant–free foam. Since this foam has the

same functional use as foam with flame retardants and is widely available, manufacturers will be able to use it without changing their manufacturing processes.

Expansion of Current California Businesses

This regulation will not result in the expansion of children’s products manufacturing businesses currently within California. As noted above, DTSC believes that many manufacturers already use flame retardant-free foam in their children’s products.

Children’s sleeping products manufacturers that do not use flame retardant-free foam will be able to easily adopt its use without changing their manufacturing processes. The potential cost savings associated with the use of flame retardant-free foam are not likely large enough to spur expansion of existing businesses.

Flame retardant-free polyurethane foam is already widely available in California; therefore, DTSC does not anticipate significant expansion of current foam manufacturing business in California as a result of this regulation.

Cost Impacts on Representative Private Persons or Businesses

In developing this regulatory proposal, DTSC evaluated the potential economic impacts on representative

private persons or businesses. DTSC determined that representative private persons or businesses would incur costs for reasonable compliance with the proposed action. DTSC estimates that there are 35–50 manufacturers of children’s foam-padded sleeping products worldwide, who make or sell their products in California, who may be affected by this proposed regulation, and these manufacturers could collectively spend \$1,750 to \$40,000 to comply with the notification and reporting requirements. The low-end of the range represents businesses with few products and the high-end represents very large businesses with numerous products. Industry leaders report that many manufacturers no longer use chemical flame retardants in their children’s products; therefore, these costs are likely overestimated. If 80% of the manufacturers are exempt from notification and reporting requirements because they use flame retardant-free polyurethane foam in their products then, industry-wide compliance costs could be as low as \$350 to \$8,000 [see *Economic Analysis*]. Assuming that only 20% of children’s foam-padded sleeping products manufacturers still use foam containing TDCPP or TCEP, then there may only be 7 to 10 manufacturers impacted by these proposed regulations.

**Table 1. Estimated costs to manufacturers.**

Total Hours	Total Manufacturers	
	35	50
1	\$1,750	\$2,500
16	\$28,000	\$40,000

Effect on Small Businesses

DTSC determined, pursuant to California Code of Regulations, Title 1, section 4, that the proposed regulatory action would affect small businesses because small businesses are regulated parties under the existing regulations. According to the Juvenile Products Manufacturers Association (JPMA), approximately 88% of their members are small- to medium-sized businesses. Of the total manufacturers potentially affected by this proposed regulation, DTSC estimates that 30–44 of them

are small- to medium-sized businesses with compliance costs that could range from \$1,500 to \$35,000. Industry leaders report that many manufacturers, including small- to medium-sized businesses, no longer use chemical flame retardants in their children’s products; therefore, these costs are likely overestimated. If 80% of the small- to medium-sized manufacturers are exempt from notification and reporting requirements because they use flame retardant-free polyurethane foam in their products, then industry-wide compliance costs for these businesses could be as low as \$300 to \$7,000.

**Table 2. Estimated costs for small to medium-sized businesses.**

Total Hours	Total Manufacturers	
	30	44
1	\$1,500	\$2,200
16	\$24,000	\$35,000

Effect on Housing Costs

DTSC determined that the proposed changes to the regulations would not impact housing costs.

CONSIDERATION OF ALTERNATIVES

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

DISCLOSURE REGARDING REASONABLE ALTERNATIVES

DTSC considered the following alternatives to the proposed regulatory action:

- 1) **Selected Alternative:** List TDCPP or TCEP in children’s foam-padded sleeping products as the Priority Product:
  - This option was selected due to the widespread presence of these products in children’s living environments. This option allows DTSC to quickly and effectively achieve the goal of significantly reducing children’s exposures to carcinogenic chemical flame retardants.
- 2) List TDCPP or TCEP in all flexible polyurethane foam as Priority Product:
  - This was considered as an alternative but dismissed as an option due to potential conflicts with existing state, federal, and international regulatory requirements for flame retardant standards for a wide variety of product types. The Priority Product was narrowed to focus on children’s sleeping products because there are no regulatory requirements to include flame retardants in these products.
- 3) List TDCPP or TCEP in nap mats only:
  - This was considered as an alternative but dismissed, as it would not result in the reductions in flame retardant exposure and improvements to children’s safety sought by DTSC. The Priority Product was expanded to include a variety of children’s foam-padded sleeping products.

OTHER APPLICABLE REQUIREMENTS PRESCRIBED BY STATUTE

**External Scientific Peer Review**

DTSC requested an external scientific peer review of the scientific basis of the proposed regulation pursuant to Health and Safety Code (HSC) section 57004. The result of the external scientific peer review will be posted to DTSC’s website at: <http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/index.cfm>.

**California Environmental Quality Act (CEQA) Compliance**

DTSC determined that this rulemaking project is exempt under CEQA (Public Resources Code section 21000, et seq.). This rulemaking meets the General Rule Exemption available under 14 CCR section 15061(b)(3). A draft Notice of Exemption (NOE) is available for review with this rulemaking file and will be filed with the State Clearinghouse when the regulations are adopted.

**California Environmental Policy Council Review**

Under the provisions of HSC section 25252.5, the California Environmental Policy Council (CEPC) reviewed the framework SCP regulations prior to their adoption in October 2013 (the CEPC Resolution may be viewed at: <http://www.calepa.ca.gov/cepc/>). Per HSC section 25252.5(f), the CEPC determined that the proposed SCP framework regulations would not have any significant adverse impact on public health or the environment and could be adopted by DTSC without undergoing a multimedia life cycle evaluation.

DTSC determined that further review by the CEPC is not warranted for this rulemaking because the requirements of HSC section 25252.5 apply only to the creation of the Safer Consumer Products program and not regulations that may be required to implement this program.

CONTACTS

Inquiries regarding technical aspects of the proposed regulations or CEQA documents may be directed to Ms. Lisa Quagliaroli of DTSC at 916-445-3077. However, such oral inquiries are not part of the rulemaking record. If Ms. Lisa Quagliaroli is unavailable, you may also contact the regulations coordinator as a backup, Mr. Benjamin Molin at (916) 322-4882.

A 45-day public comment period for this rulemaking file, as described above, will commence on July 15, 2016 and close on August 29, 2016. During this time, DTSC will accept statements, arguments or contentions, or supporting documents regarding this rule-

making that must be submitted in writing, or may be presented orally or in writing at the public hearing. Comments must be received by the deadline in order for them to be considered before DTSC adopts, amends, or repeals these regulations.

AVAILABILITY OF TEXT OF PROPOSED  
REGULATIONS AND INITIAL STATEMENT  
OF REASONS

Copies of the Notice, Initial Statement of Reasons, the text of the proposed regulations, all the information upon which the proposal is based, as well as the express terms of the proposed regulations are posted to DTSC's website at: <http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/index.cfm>.

Copies of these documents may also be obtained from Mr. Benjamin Molin, in the Office of Legal Affairs, as specified above.

After the close of the 45-day comment period, DTSC may adopt the proposed regulation. If changes are made to the regulation text, the modified full text will be made available for comment for at least 15 days prior to adoption. Only persons who specifically request copies of the modified text, attend the public hearing, provide written or oral comments at the hearing, or submit written comments to our office will be sent a copy of the modified text if substantive changes are made.

Once DTSC finalizes the regulation text, DTSC will prepare a Final Statement of Reasons that updates the Initial Statement of Reasons, summarizes how DTSC addressed comments, and includes other materials, as required by Government Code section 11346.9. A copy of the Final Statement of Reasons, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulations, will be posted on DTSC's website at:

<http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/index.cfm>.

To be included in this regulation package's mailing list and to receive updates of this rulemaking, please visit

<http://www.dtsc.ca.gov/ContactDTSC/ELists.cfm> and subscribe to the applicable electronic mailing list.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND  
WILDLIFE**

PROPOSED RESEARCH ON FULLY  
PROTECTED SPECIES

Monitoring California Least Tern Nesting Colonies

The Department of Fish and Wildlife ("Department") received a proposal on June 15, 2016 from Brennan Mulrooney with AECOM, San Diego, California, requesting authorization to take California Least Terns (*Sterna antillarum browni*; tern), for research purposes, consistent with the protection and recovery of the species. The tern is a Fully Protected bird, and is also listed as Endangered under the California Endangered Species Act and Endangered under the federal Endangered Species Act.

Mr. Mulrooney is planning to conduct research of tern colonies along the southern California coast from San Diego County through Santa Barbara County, in accordance with methods approved by the Department and the U.S. Fish and Wildlife Service (under Recovery Permit TE820658-6.6).

The following research activities are proposed: a) monitoring reproductive output and predation of terns using binoculars and spotting scopes; and b) using active survey techniques including entering active tern nesting areas to visually survey, mark, and monitor nesting status and success and determine age class of individuals.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Mr. Mulrooney as the Principal Investigator, to carry out the proposed activities. The applicants are also required to have a valid federal recovery permit and federal bird banding lab permit for the tern (if banding is authorized in the future), and a scientific collecting permit (SCP) to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected Birds after a 30-day notice has been provided to affected and interested parties through publication of this notice. If the Department determines that

the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after August 15, 2016, for an initial and renewable term of three years. Contact: Nancy Frost, [Nancy.Frost@wildlife.ca.gov](mailto:Nancy.Frost@wildlife.ca.gov), Phone (858) 467-4208.

**DEPARTMENT OF FISH AND WILDLIFE**

**PROPOSED RESEARCH ON FULLY PROTECTED SPECIES**

**Monitoring California Least Tern Nesting Colonies**

The Department of Fish and Wildlife (“Department”) received a proposal on May 24, 2016 from the Zoological Society of San Diego, California, requesting authorization to take California Least Terns (*Sternula antillarum brownii*; tern), for research purposes, consistent with the protection and recovery of the species. The tern is a Fully Protected bird, and is also listed as Endangered under the California Endangered Species Act and Endangered under the federal Endangered Species Act.

Katrina Murbock is planning to conduct research on the tern at the Marine Corps Base Camp Pendleton and Naval Base Coronado colonies, in accordance with the methods approved by the Department and the U.S. Fish and Wildlife Service (under Recovery Permit TE53825B-0).

- a) The following research activities are proposed: a) enter tern nesting areas; b) mark tern nests and eggs to monitor nesting status and success; c) floating eggs; d) using cameras, recording devices, data loggers, and blinds in tern nesting areas to monitor adult nest attendance, food provisioning, reproductive output, and predation throughout the range of the species; e) attaching/removing geolocators from up to 50 adult individuals at the colonies mentioned above and targeting adults that are already banded in order to collect information for age-structure and survivorship studies; f) remove up to 4 contour feathers from 200 adult terns per year; g) move nests with eggs out of active training areas to nearby safer areas, transport sick or injured individuals to qualified rehabilitation facilities, and salvage abandoned eggs or chick or adult carcasses; and h) use audio playback with decoys, install and remove sub-sampling fences, and capture, band, and radio-mark (all bands, auxiliary markers, radio transmitters, and attachment materials not to exceed 3% total body weight and radio tag will only be attached to the

pin feathers). Terns will be held for no more than 20 minutes, and released at Naval Base Coronado and Marine Corps Base Camp Pendleton.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Ms. Murbock as the Principal Investigator, to carry out the proposed activities. The applicants are also required to have a valid federal recovery permit and federal bird banding lab permit for the tern, and a scientific collecting permit (SCP) to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected Birds after a 30-day notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after August 15, 2016, for an initial and renewable term of three years. Contact: Nancy Frost, [Nancy.Frost@wildlife.ca.gov](mailto:Nancy.Frost@wildlife.ca.gov), Phone (858) 467-4208.

**PROPOSITION 65**

**OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

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

**(PROPOSITION 65)**

**NOTICE TO INTERESTED PARTIES**

**JULY 15, 2016**

**CHEMICALS LISTED EFFECTIVE JULY 15, 2016 AS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE REPRODUCTIVE TOXICITY: ATRAZINE, PROPAZINE, SIMAZINE AND THEIR CHLOROMETABOLITES DACT, DEA AND DIA**

On March 27, 2015, the Office of Environmental Health Hazard Assessment (OEHHA) provided notice that *atrazine*, *propazine*, *simazine*, *des-ethyl atrazine (DEA)*, *des-isopropyl atrazine (DIA)* and *2,4-diamino-6-chloro-s-triazine (DACT)*<sup>1</sup> would be added to the list of chemicals known to the state to cause

<sup>1</sup> DACT was incorrectly identified as 2,3-diamino-6-chloro-s-triazine (instead of 2,4-diamino-6-chloro-s-triazine) in the Feb. 7, 2014 notice of intent to list the chemical and in the March 24, 2015 notice of listing.

reproductive toxicity for purposes of Proposition 65<sup>2</sup> with a delayed effective date due to pending litigation.

The listing of these chemicals was initially to be effective on August 3, 2015. Due to Syngenta Crop Protection's<sup>3</sup> legal challenge to the listing, this was later changed several times because of delays in the litigation. Syngenta's challenge was unsuccessful in the trial court. Although the case has been appealed, no stay of

the listing has been granted. Therefore, **atrazine, propazine, simazine, des-ethyl atrazine (DEA), des-isopropyl atrazine (DIA) and 2,4-diamino-6-chloro-s-triazine (DACT) are being added to the Proposition 65 list on July 15, 2016.**

In summary, these six chemicals are listed under Proposition 65 effective July 15, 2016 as known to the state to cause reproductive toxicity, as follows:

Chemical	CAS No.	Toxicological Endpoints	Listing Mechanism
Atrazine	1912-24-9	Developmental toxicity Female reproductive toxicity	AB (US EPA)
Propazine	139-40-2		
Simazine	122-34-9		
Des-ethyl atrazine (DEA)	6190-65-4		
Des-isopropyl atrazine (DIA)	1007-28-9		
2,4-Diamino-6-chloro-s-triazine (DACT)	3397-62-4		

**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 15, 2016**

The Safe Drinking Water and Toxic Enforcement Act

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

<sup>3</sup> *Syngenta Crop Protection v. OEHHA* (Sacramento Superior Court case # 34-2014-800001868).

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

CHEMICALS KNOWN TO THE STATE TO CAUSE CANCER

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
A-alpha-C (2-Amino-9H-pyrido[2,3-b]indole)	26148-68-5	January 1, 1990
Acetaldehyde	75-07-0	April 1, 1988
Acetamide	60-35-5	January 1, 1990
Acetochlor	34256-82-1	January 1, 1989
2-Acetylaminofluorene	53-96-3	July 1, 1987
Acifluorfen sodium	62476-59-9	January 1, 1990
Acrylamide	79-06-1	January 1, 1990
Acrylonitrile	107-13-1	July 1, 1987
Actinomycin D	50-76-0	October 1, 1989
AF-2;[2-(2-furyl)-3-(5-nitro-2-furyl)]acrylamide	3688-53-7	July 1, 1987
Aflatoxins	—	January 1, 1988
Alachlor	15972-60-8	January 1, 1989
Alcoholic beverages, when associated with alcohol abuse	—	July 1, 1988
Aldrin	309-00-2	July 1, 1988
Allyl chloride <u>Delisted October 29, 1999</u>	107-05-1	January 1, 1990
Aloe vera, non-decolorized whole leaf extract		December 4, 2015
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
Anthraquinone	84-65-1	September 28, 2007
Antimony oxide (Antimony trioxide)	1309-64-4	October 1, 1990
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

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Benzo[b]fluoranthene	205-99-2	July 1, 1987
Benzo[j]fluoranthene	205-82-3	July 1, 1987
Benzo[k]fluoranthene	207-08-9	July 1, 1987
Benzofuran	271-89-6	October 1, 1990
Benzophenone	119-61-9	June 22, 2012
Benzo[a]pyrene	50-32-8	July 1, 1987
Benzotrichloride	98-07-7	July 1, 1987
Benzyl chloride	100-44-7	January 1, 1990
Benzyl violet 4B	1694-09-3	July 1, 1987
Beryllium and beryllium compounds	—	October 1, 1987
Betel quid with tobacco	—	January 1, 1990
Betel quid without tobacco	—	February 3, 2006
2,2-Bis(bromomethyl)-1,3-propanediol	3296-90-0	May 1, 1996
Bis(2-chloroethyl)ether	111-44-4	April 1, 1988
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornapazine)	494-03-1	February 27, 1987
Bischloroethyl nitrosourea (BCNU) (Carmustine)	154-93-8	July 1, 1987
Bis(chloromethyl)ether	542-88-1	February 27, 1987
Bis(2-chloro-1-methylethyl) ether, technical grade	—	October 29, 1999
Bitumens, extracts of steam-refined and air refined	—	January 1, 1990
Bracken fern	—	January 1, 1990
Bromate	15541-45-4	May 31, 2002
Bromochloroacetic acid	5589-96-8	April 6, 2010
Bromodichloromethane	75-27-4	January 1, 1990
Bromoethane	74-96-4	December 22, 2000
Bromoform	75-25-2	April 1, 1991
1,3-Butadiene	106-99-0	April 1, 1988
1,4-Butanediol dimethanesulfonate (Busulfan)	55-98-1	February 27, 1987
Butylated hydroxyanisole	25013-16-5	January 1, 1990
beta-Butyrolactone	3068-88-0	July 1, 1987
Cacodylic acid	75-60-5	May 1, 1996
Cadmium and cadmium compounds	—	October 1, 1987
Caffeic acid	331-39-5	October 1, 1994
Captafol	2425-06-1	October 1, 1988
Captan	133-06-2	January 1, 1990
Carbaryl	63-25-2	February 5, 2010
Carbazole	86-74-8	May 1, 1996
Carbon black (airborne, unbound particles of respirable size)	1333-86-4	February 21, 2003
Carbon tetrachloride	56-23-5	October 1, 1987
Carbon-black extracts	—	January 1, 1990
N-Carboxymethyl-N-nitrosourea	60391-92-6	January 25, 2002
Catechol	120-80-9	July 15, 2003
Ceramic fibers (airborne particles of respirable size)	—	July 1, 1990
Certain combined chemotherapy for lymphomas	—	February 27, 1987
Chloral	75-87-6	September 13, 2013
Chloral hydrate	302-17-0	September 13, 2013
Chlorambucil	305-03-3	February 27, 1987
Chloramphenicol <u>Delisted January 4, 2013</u>	56-75-7	October 1, 1989
Chloramphenicol sodium succinate	982-57-0	September 27, 2013
Chlordane	57-74-9	July 1, 1988
Chlordecone (Kepone)	143-50-0	January 1, 1988
Chlordimeform	6164-98-3	January 1, 1989
Chlorendic acid	115-28-6	July 1, 1989

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Chlorinated paraffins (Average chain length, C12; approximately 60 percent chlorine by weight)	108171-26-2	July 1, 1989
<i>p</i> -Chloroaniline	106-47-8	October 1, 1994
<i>p</i> -Chloroaniline hydrochloride	20265-96-7	May 15, 1998
Chlorodibromomethane <u>Delisted October 29, 1999</u>	124-48-1	January 1, 1990
Chloroethane (Ethyl chloride)	75-00-3	July 1, 1990
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (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
<i>p</i> -Chloro- <i>o</i> -toluidine	95-69-2	January 1, 1990
<i>p</i> -Chloro- <i>o</i> -toluidine, strong acid salts of	—	May 15, 1998
5-Chloro- <i>o</i> -toluidine and its strong acid salts	—	October 24, 1997
Chloroprene	126-99-8	June 2, 2000
Chlorothalonil	1897-45-6	January 1, 1989
Chlorotrianisene	569-57-3	September 1, 1996
Chlorozotocin	54749-90-5	January 1, 1992
Chromium (hexavalent compounds)	—	February 27, 1987
Chrysene	218-01-9	January 1, 1990
C.I. Acid Red 114	6459-94-5	July 1, 1992
C.I. Basic Red 9 monohydrochloride	569-61-9	July 1, 1989
C.I. Direct Blue 15	2429-74-5	August 26, 1997
C.I. Direct Blue 218	28407-37-6	August 26, 1997
C.I. Disperse Yellow 3	2832-40-8	February 8, 2013
C.I. Solvent Yellow 14	842-07-9	May 15, 1998
Ciclosporin (Cyclosporin A; Cyclosporine)	59865-13-3	January 1, 1992
	79217-60-0	
Cidofovir	113852-37-2	January 29, 1999
Cinnamyl anthranilate	87-29-6	July 1, 1989
Cisplatin	15663-27-1	October 1, 1988
Citrus Red No. 2	6358-53-8	October 1, 1989
Clofibrate	637-07-0	September 1, 1996
Clomiphene citrate	50-41-9	May 24, 2013
CMNP (pyrazachlor)	6814-58-0	August 21, 2015
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)	—	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

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
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) <u>Delisted November 20, 2015</u>	—	January 1, 1990
Diazoaminobenzene	136-35-6	May 20, 2005
Dibenz[a,h]acridine	226-36-8	January 1, 1988
Dibenz[a,j]acridine	224-42-0	January 1, 1988
Dibenzanthracenes	—	December 26, 2014
Dibenz[a,c]anthracene	215-58-7	December 26, 2014
Dibenz[a,h]anthracene	53-70-3	January 1, 1988
Dibenz[a,j]anthracene	224-41-9	December 26, 2014
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 <u>Delisted January 4, 2013</u>	84-17-3	January 1, 1990
Diepoxybutane	1464-53-5	January 1, 1988

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Diesel engine exhaust	—	October 1, 1990
Diethanolamine	111-42-2	June 22, 2012
Di(2-ethylhexyl)phthalate	117-81-7	January 1, 1988
1,2-Diethylhydrazine	1615-80-1	January 1, 1988
Diethyl sulfate	64-67-5	January 1, 1988
Diethylstilbestrol (DES)	56-53-1	February 27, 1987
Diglycidyl resorcinol ether (DGRE)	101-90-6	July 1, 1989
Dihydrosafrole	94-58-6	January 1, 1988
Diisononyl phthalate (DINP)	—	December 20, 2013
Diisopropyl sulfate	2973-10-6	April 1, 1993
3,3'-Dimethoxybenzidine (ortho-Dianisidine)	119-90-4	January 1, 1988
3,3'-Dimethoxybenzidine dihydrochloride (ortho-Dianisidine dihydrochloride)	20325-40-0	October 1, 1990
3,3'-Dimethoxybenzidine-based dyes metabolized to 3,3'-dimethoxybenzidine	—	June 11, 2004
3,3'-Dimethylbenzidine-based dyes metabolized to 3,3'-dimethylbenzidine	—	June 11, 2004
Dimethyl sulfate	77-78-1	January 1, 1988
4-Dimethylaminoazobenzene	60-11-7	January 1, 1988
trans-2-[(Dimethylamino)methylimino]-5-[2-(5-nitro-2-furyl)vinyl]-1,3,4-oxadiazole	55738-54-0	January 1, 1988
7,12-Dimethylbenz(a)anthracene	57-97-6	January 1, 1990
3,3'-Dimethylbenzidine (ortho-Tolidine)	119-93-7	January 1, 1988
3,3'-Dimethylbenzidine dihydrochloride	612-82-8	April 1, 1992
Dimethylcarbonyl chloride	79-44-7	January 1, 1988
1,1-Dimethylhydrazine (UDMH)	57-14-7	October 1, 1989
1,2-Dimethylhydrazine	540-73-8	January 1, 1988
2,6-Dimethyl-N-nitrosomorpholine (DMNM)	1456-28-6	February 8, 2013
N,N-Dimethyl-p-toluidine	99-97-8	May 2, 2014
Dimethylvinylchloride	513-37-1	July 1, 1989
3,7-Dinitrofluoranthene	105735-71-5	August 26, 1997
3,9-Dinitrofluoranthene	22506-53-2	August 26, 1997
1,3-Dinitropyrene	75321-20-9	November 2, 2012
1,6-Dinitropyrene	42397-64-8	October 1, 1990
1,8-Dinitropyrene	42397-65-9	October 1, 1990
Dinitrotoluene mixture, 2,4-/2,6-	—	May 1, 1996
2,4-Dinitrotoluene	121-14-2	July 1, 1988
2,6-Dinitrotoluene	606-20-2	July 1, 1995
Di-n-propyl isocinchomeronate (MGK Repellent 326)	136-45-8	May 1, 1996
1,4-Dioxane	123-91-1	January 1, 1988
Diphenylhydantoin (Phenytoin)	57-41-0	January 1, 1988
Diphenylhydantoin (Phenytoin), sodium salt	630-93-3	January 1, 1988
Direct Black 38 (technical grade)	1937-37-7	January 1, 1988
Direct Blue 6 (technical grade)	2602-46-2	January 1, 1988
Direct Brown 95 (technical grade)	16071-86-6	October 1, 1988
Disperse Blue 1	2475-45-8	October 1, 1990
Diuron	330-54-1	May 31, 2002
Doxorubicin hydrochloride (Adriamycin)	25316-40-9	July 1, 1987
Emissions from combustion of coal	—	August 7, 2013
Emissions from high-temperature unrefined rapeseed oil	—	January 3, 2014
Epichlorohydrin	106-89-8	October 1, 1987
Epoxiconazole	135319-73-2	April 15, 2011

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Erionite	12510-42-8/ 66733-21-9	October 1, 1988
Estradiol 17B	50-28-2	January 1, 1988
Estragole	140-67-0	October 29, 1999
Estrogens, steroidal	—	August 19, 2005
Estrogen-progestogen (combined) used as menopausal therapy	—	November 4, 2011
Estrone	53-16-7	January 1, 1988
Estropipate	7280-37-7	August 26, 1997
Ethanol in alcoholic beverages	—	April 29, 2011
Ethinylestradiol	57-63-6	January 1, 1988
Ethoprop	13194-48-4	February 27, 2001
Ethyl acrylate	140-88-5	July 1, 1989
Ethylbenzene	100-41-4	June 11, 2004
Ethyl methanesulfonate	62-50-0	January 1, 1988
Ethyl-4,4'-dichlorobenzilate	510-15-6	January 1, 1990
Ethylene dibromide	106-93-4	July 1, 1987
Ethylene dichloride (1,2-Dichloroethane)	107-06-2	October 1, 1987
Ethylene oxide	75-21-8	July 1, 1987
Ethylene thiourea	96-45-7	January 1, 1988
Ethyleneimine (Aziridine)	151-56-4	January 1, 1988
Etoposide	33419-42-0	November 4, 2011
Etoposide in combination with cisplatin and bleomycin	—	November 4, 2011
Fenoxycarb	72490-01-8	June 2, 2000
Folpet	133-07-3	January 1, 1989
Formaldehyde (gas)	50-00-0	January 1, 1988
2-(2-Formylhydrazino)-4-(5-nitro-2-furyl)thiazole	3570-75-0	January 1, 1988
FumonisinB <sub>1</sub>	116355-83-0	November 14, 2003
Furan	110-00-9	October 1, 1993
Furazolidone	67-45-8	January 1, 1990
Furmecyclox	60568-05-0	January 1, 1990
Fusarin C	79748-81-5	July 1, 1995
Gallium arsenide	1303-00-0	August 1, 2008
Ganciclovir	82410-32-0	August 26, 1997
Gasoline engine exhaust (condensates/extracts)	—	October 1, 1990
Gemfibrozil	25812-30-0	December 22, 2000
Glass wool fibers (inhalable and biopersistent)	—	July 1, 1990
Glu-P-1 (2-Amino-6-methyldipyrido[1,2-a:3',2'-d]imidazole)	67730-11-4	January 1, 1990
Glu-P-2 (2-Aminodipyrido[1,2-a:3',2'-d]imidazole)	67730-10-3	January 1, 1990
Glycidaldehyde	765-34-4	January 1, 1988
Glycidol	556-52-5	July 1, 1990
Goldenseal root powder	—	December 4, 2015
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

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Hexachloroethane	67-72-1	July 1, 1990
2,4-Hexadienal (89% trans, trans isomer; 11% cis, trans isomer)	—	March 4, 2005
Hexamethylphosphoramide	680-31-9	January 1, 1988
Hydrazine	302-01-2	January 1, 1988
Hydrazine sulfate	10034-93-2	January 1, 1988
Hydrazobenzene (1,2-Diphenylhydrazine)	122-66-7	January 1, 1988
1-Hydroxyanthraquinone	129-43-1	May 27, 2005
Imazalil	35554-44-0	May 20, 2011
Indeno [1,2,3-cd]pyrene	193-39-5	January 1, 1988
Indium phosphide	22398-80-7	February 27, 2001
IQ (2-Amino-3-methylimidazo[4,5-f]quinoline)	76180-96-6	April 1, 1990
Iprodione	36734-19-7	May 1, 1996
Iprovalicarb	140923-17-7	June 1, 2007
	140923-25-7	
Iron dextran complex	9004-66-4	January 1, 1988
Isobutyl nitrite	542-56-3	May 1, 1996
Isoprene	78-79-5	May 1, 1996
Isopyrazam	881686-58-1	July 24, 2012
Isosafrole <u>Delisted December 8, 2006</u>	120-58-1	<del>October 1, 1989</del>
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
Malathion	121-75-5	May 20, 2016
Malonaldehyde, sodium salt	24382-04-5	May 3, 2011
Mancozeb	8018-01-7	January 1, 1990
Maneb	12427-38-2	January 1, 1990
Marijuana smoke	—	June 19, 2009
Me-A-alpha-C (2-Amino-3-methyl-9H-pyrido[2,3-b]indole)	68006-83-7	January 1, 1990
Medroxyprogesterone acetate	71-58-9	January 1, 1990
Megestrol acetate	595-33-5	March 28, 2014
MeIQ(2-Amino-3,4-dimethylimidazo[4,5-f]quinoline)	77094-11-2	October 1, 1994
MeIQx(2-Amino-3,8-dimethylimidazo[4,5-f]quinoxaline)	77500-04-0	October 1, 1994
Melphalan	148-82-3	February 27, 1987
Mepanipyridin	110235-47-7	July 1, 2008
Merphalan	531-76-0	April 1, 1988
Mestranol	72-33-3	April 1, 1988
Metam potassium	137-41-7	December 31, 2010
Metham sodium	137-42-8	November 6, 1998
8-Methoxypsoralen with ultraviolet A therapy	298-81-7	February 27, 1987
5-Methoxypsoralen with ultraviolet A therapy	484-20-8	October 1, 1988
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

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
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
$\alpha$ -Methyl styrene (alpha-Methylstyrene)	98-83-9	November 2, 2012
Methylthiouracil	56-04-2	October 1, 1989
Metiram	9006-42-2	January 1, 1990
Metronidazole	443-48-1	January 1, 1988
Michler's ketone	90-94-8	January 1, 1988
Mirex	2385-85-5	January 1, 1988
Mitomycin C	50-07-7	April 1, 1988
Mitoxantrone hydrochloride	70476-82-3	January 23, 2015
MON 4660 (dichloroacetyl-1-oxa-4-azaspiro(4,5)-decane)	71526-07-3	March 22, 2011
MON 13900 (furilazole)	121776-33-8	March 22, 2011
3-Monochloropropane-1,2-diol (3-MCPD)	96-24-2	October 8, 2010
Monocrotaline	315-22-0	April 1, 1988
MOPP (vincristine-prednisone-nitrogen mustard-procarbazine mixture)	113803-47-7	November 4, 2011
5-(Morpholinomethyl)-3-[(5-nitro-furfurylidene)-amino]-2-oxazolidinone	139-91-3	April 1, 1988
Mustard Gas	505-60-2	February 27, 1987
MX (3-chloro-4-(dichloromethyl)-5-hydroxy-2(5H)-furanone)	77439-76-0	December 22, 2000
beta-Myrcene	123-35-3	March 27, 2015
Nafenopin	3771-19-5	April 1, 1988
Nalidixic acid	389-08-2	May 15, 1998
Naphthalene	91-20-3	April 19, 2002
1-Naphthylamine	134-32-7	October 1, 1989
2-Naphthylamine	91-59-8	February 27, 1987
Nickel (Metallic)	7440-02-0	October 1, 1989
Nickel acetate	373-02-4	October 1, 1989
Nickel carbonate	3333-67-3	October 1, 1989
Nickel carbonyl	13463-39-3	October 1, 1987
Nickel compounds	—	May 7, 2004
Nickel hydroxide	12054-48-7;	October 1, 1989
	12125-56-3	
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

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

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

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
N-Nitrososarcosine	13256-22-9	January 1, 1988
<i>o</i> -Nitrotoluene	88-72-2	May 15, 1998
Norethisterone (Norethindrone)	68-22-4	October 1, 1989
Norethynodrel	68-23-5	February 27, 2001
Ochratoxin A	303-47-9	July 1, 1990
Oil Orange SS	2646-17-5	April 1, 1988
Oral contraceptives, combined	—	October 1, 1989
Oral contraceptives, sequential	—	October 1, 1989
Oryzalin	19044-88-3	September 12, 2008
Oxadiazon	19666-30-9	July 1, 1991
Oxazepam	604-75-1	October 1, 1994
Oxymetholone	434-07-1	January 1, 1988
Oxythioquinox (Chinomethionat)	2439-01-2	August 20, 1999
Palygorskite fibers (> 5µm in length)	12174-11-7	December 28, 1999
Panfuran S	794-93-4	January 1, 1988
Parathion	56-38-2	May 20, 2016
Pentachlorophenol	87-86-5	January 1, 1990
Pentosan polysulfate sodium	—	April 18, 2014
Phenacetin	62-44-2	October 1, 1989
Phenazopyridine	94-78-0	January 1, 1988
Phenazopyridine hydrochloride	136-40-3	January 1, 1988
Phenesterin	3546-10-9	July 1, 1989
Phenobarbital	50-06-6	January 1, 1990
Phenolphthalein	77-09-8	May 15, 1998
Phenoxybenzamine	59-96-1	April 1, 1988
Phenoxybenzamine hydrochloride	63-92-3	April 1, 1988
<i>o</i> -Phenylenediamine and its salts	95-54-5	May 15, 1998
Phenyl glycidyl ether	122-60-1	October 1, 1990
Phenylhydrazine and its salts	—	July 1, 1992
<i>o</i> -Phenylphenate, sodium	132-27-4	January 1, 1990
<i>o</i> -Phenylphenol	90-43-7	August 4, 2000
PhiP(2-Amino-1-methyl-6-phenylimidazol[4,5-b]pyridine)	105650-23-5	October 1, 1994
Pioglitazone	111025-46-8	April 18, 2014
Pirimicarb	23103-98-2	July 2, 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
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

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Propargite	2312-35-8	October 1, 1994
beta-Propiolactone	57-57-8	January 1, 1988
Propoxur	114-26-1	August 11, 2006
Propylene glycol mono- <i>t</i> -butyl ether	57018-52-7	June 11, 2004
Propylene oxide	75-56-9	October 1, 1988
Propylthiouracil	51-52-5	January 1, 1988
Pulegone	89-82-7	April 18, 2014
Pymetrozine	123312-89-0	March 22, 2011
Pyridine	110-86-1	May 17, 2002
Quinoline and its strong acid salts	—	October 24, 1997
Radionuclides	—	July 1, 1989
Reserpine	50-55-5	October 1, 1989
Residual (heavy) fuel oils	—	October 1, 1990
Resmethrin	10453-86-8	July 1, 2008
Riddelliine	23246-96-0	December 3, 2004
Saccharin <u>Delisted April 6, 2001</u>	81-07-2	October 1, 1989
Saccharin, sodium <u>Delisted January 17, 2003</u>	128-44-9	January 1, 1988
Safrole	94-59-7	January 1, 1988
Salted fish, Chinese-style	—	April 29, 2011
Sedaxane	874967-67-6	July 1, 2016
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	100-42-5	April 22, 2016
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
Teriparatide	52232-67-4	August 14, 2015
Terrazole	2593-15-9	October 1, 1994
Testosterone and its esters	58-22-0	April 1, 1988
3,3',4,4'-Tetrachloroazobenzene	14047-09-7	July 24, 2012
2,3,7,8-Tetrachlorodibenzo- <i>para</i> -dioxin (TCDD)	1746-01-6	January 1, 1988
1,1,1,2-Tetrachloroethane	630-20-6	September 13, 2013
1,1,2,2-Tetrachloroethane	79-34-5	July 1, 1990
Tetrachloroethylene (Perchloroethylene)	127-18-4	April 1, 1988
<i>p</i> -a,a,a-Tetrachlorotoluene	5216-25-1	January 1, 1990
Tetrachlorvinphos	22248-79-9	May 20, 2016
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

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
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
para-Toluidine <u>Delisted October 29, 1999</u>	106-49-0	January 1, 1990
Toxaphene (Polychlorinated camphenes)	8001-35-2	January 1, 1988
Toxins derived from <i>Fusarium moniliforme</i> ( <i>Fusarium verticillioides</i> )	—	August 7, 2009
Treosulfan	299-75-2	February 27, 1987
Triamterene	396-01-0	April 18, 2014
S,S,S-Tributyl phosphorotrithioate (Tribufos, DEF)	78-48-8	February 25, 2011
Trichlormethine (Trimustine hydrochloride)	817-09-4	January 1, 1992
Trichloroacetic acid	76-03-9	September 13, 2013
Trichloroethylene	79-01-6	April 1, 1988
2,4,6-Trichlorophenol	88-06-2	January 1, 1988
1,2,3-Trichloropropane	96-18-4	October 1, 1992
Trimethyl phosphate	512-56-1	May 1, 1996
2,4,5-Trimethylaniline and its strong acid salts	—	October 24, 1997
2,4,6-Trinitrotoluene (TNT)	118-96-7	December 19, 2008
Triphenyltin hydroxide	76-87-9	July 1, 1992
Tris(aziridinyl)-para-benzoquinone (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>CAS No.</u>	<u>Date Listed</u>
Abiraterone acetate	developmental, female, male	154229-18-2	April 8, 2016
Acetazolamide	developmental	59-66-5	August 20, 1999
Acetohydroxamic acid	developmental	546-88-3	April 1, 1990
Acrylamide	developmental, male	79-06-1	February 25, 2011
Actinomycin D	developmental	50-76-0	October 1, 1992
All-trans retinoic acid	developmental	302-79-4	January 1, 1989
Alprazolam	developmental	28981-97-7	July 1, 1990
Altretamine	developmental, male	645-05-6	August 20, 1999
Amantadine hydrochloride	developmental	665-66-7	February 27, 2001
Amikacin sulfate	developmental	39831-55-5	July 1, 1990
Aminoglutethimide	developmental	125-84-8	July 1, 1990
tert-Amyl methyl ether	developmental	994-05-8	December 18, 2009
<u>Delisted December 13, 2013</u>			
Aminoglycosides	developmental	—	October 1, 1992
Aminopterin	developmental, female	54-62-6	July 1, 1987
Amiodarone hydrochloride	developmental, female, male	19774-82-4	August 26, 1997
Amitraz	developmental	33089-61-1	March 30, 1999
Amoxapine	developmental	14028-44-5	May 15, 1998
Anabolic steroids	female, male	—	April 1, 1990
Angiotensin converting enzyme (ACE) inhibitors	developmental	—	October 1, 1992
Anisindione	developmental	117-37-3	October 1, 1992
Arsenic (inorganic oxides)	developmental	—	May 1, 1997
Aspirin (NOTE: It is especially important not to use aspirin during the last three months of pregnancy, unless specifically directed to do so by a physician because it may cause problems in the unborn child or complications during delivery.)	developmental, female	50-78-2	July 1, 1990
Atenolol	developmental	29122-68-7	August 26, 1997
<u>Atrazine</u>	<u>developmental, female</u>	<u>1912-24-9</u>	<u>July 15, 2016</u>
Auranofin	developmental	34031-32-8	January 29, 1999
Avermectin B1 (Abamectin)	developmental	71751-41-2	December 3, 2010
Azathioprine	developmental	446-86-6	September 1, 1996
Barbiturates	developmental	—	October 1, 1992
Beclomethasone dipropionate	developmental	5534-09-8	May 15, 1998
Benomyl	developmental, male	17804-35-2	July 1, 1991
Benzene	developmental, male	71-43-2	December 26, 1997
Benzodiazepines	developmental	—	October 1, 1992
Benzphetamine hydrochloride	developmental	5411-22-3	April 1, 1990
Bischloroethyl nitrosourea (BCNU) (Carmustine)	developmental	154-93-8	July 1, 1990
Bisphenol A (BPA)	female	80-05-7	May 11, 2015
Bisphenol A (BPA)	developmental	80-05-7	April 11, 2013
<u>Delisted April 19, 2013</u>			
Bromacil lithium salt	developmental male	53404-19-6	May 18, 1999 January 17, 2003
1-Bromopropane	developmental, female, male	106-94-5	December 7, 2004
2-Bromopropane	female, male	75-26-3	May 31, 2005
Bromoxynil	developmental	1689-84-5	October 1, 1990

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

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

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Demeclocycline hydrochloride (internal use)	developmental	64-73-3	January 1, 1992
<u>Des-ethyl atrazine (DEA)</u>	<u>developmental, female</u>	<u>6190-65-4</u>	<u>July 15, 2016</u>
<u>Des-isopropyl atrazine (DIA)</u>	<u>developmental, female</u>	<u>1007-28-9</u>	<u>July 15, 2016</u>
<u>2,4-Diamino-6-chloro-s-triazine (DACT)</u>	<u>developmental, female</u>	<u>3397-62-4</u>	<u>July 15, 2016</u>
Diazepam	developmental	439-14-5	January 1, 1992
Diazoxide	developmental	364-98-7	February 27, 2001
1,2-Dibromo-3-chloropropane (DBCP)	male	96-12-8	February 27, 1987
Di-n-butyl phthalate (DBP)	developmental, female, male	84-74-2	December 2, 2005
Dichloroacetic acid	developmental, male	79-43-6	August 7, 2009
1,1-Dichloro-2,2-bis(p-chlorophenyl)ethylene (DDE)	developmental, male	72-55-9	March 30, 2010
Dichlorophene	developmental	97-23-4	April 27, 1999
Dichlorophenamide	developmental	120-97-8	February 27, 2001
Diclofop methyl	developmental	51338-27-3	March 5, 1999
Dicumarol	developmental	66-76-2	October 1, 1992
Di(2-ethylhexyl)phthalate (DEHP)	developmental, male	117-81-7	October 24, 2003
Diethylstilbestrol (DES)	developmental	56-53-1	July 1, 1987
Diflunisal	developmental, female	22494-42-4	January 29, 1999
Diglycidyl ether <u>Delisted April 4, 2014</u>	male	2238-07-5	August 7, 2009
Di-n-hexyl phthalate (DnHP)	female, male	84-75-3	December 2, 2005
Dihydroergotamine mesylate	developmental	6190-39-2	May 1, 1997
Di-isodecyl phthalate (DIDP)	developmental	68515-49-1/ 26761-40-0	April 20, 2007
Diltiazem hydrochloride	developmental	33286-22-5	February 27, 2001
N,N-Dimethylacetamide	developmental, male	127-19-5	May 21, 2010
m-Dinitrobenzene	male	99-65-0	July 1, 1990
o-Dinitrobenzene	male	528-29-0	July 1, 1990
p-Dinitrobenzene	male	100-25-4	July 1, 1990
2,4-Dinitrotoluene	male	121-14-2	August 20, 1999
2,6-Dinitrotoluene	male	606-20-2	August 20, 1999
Dinitrotoluene (technical grade)	female, male	—	August 20, 1999
Dinocap	developmental	39300-45-3	April 1, 1990
Dinoseb	developmental, male	88-85-7	January 1, 1989
Diphenylhydantoin (Phenytoin)	developmental	57-41-0	July 1, 1987
Disodium cyanodithioimidocarbonate	developmental	138-93-2	March 30, 1999
Doxorubicin hydrochloride (Adriamycin)	developmental, male	25316-40-9	January 29, 1999
Doxycycline (internal use)	developmental	564-25-0	July 1, 1990
Doxycycline calcium (internal use)	developmental	94088-85-4	January 1, 1992
Doxycycline hyclate (internal use)	developmental	24390-14-5	October 1, 1991
Doxycycline monohydrate (internal use)	developmental	17086-28-1	October 1, 1991
<u>2,4 DP (dichloroprop)</u> <u>Delisted January 25, 2002</u>	developmental	120-36-5	April 27, 1999
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

<i>Chemical</i>	<i>Type of Reproductive Toxicity</i>	<i>CAS No.</i>	<i>Date Listed</i>
Ethyl alcohol in alcoholic beverages	developmental	—	October 1, 1987
Ethyl-tert-butyl ether	male	637-92-3	December 18, 2009
<u>Delisted December 13, 2013</u>			
Ethyl dipropylthiocarbamate	developmental	759-94-4	April 27, 1999
Ethylene dibromide	developmental, male	106-93-4	May 15, 1998
Ethylene glycol (ingested)	developmental	107-21-1	June 19, 2015
Ethylene glycol monoethyl ether	developmental, male	110-80-5	January 1, 1989
Ethylene glycol monomethyl ether	developmental, male	109-86-4	January 1, 1989
Ethylene glycol monoethyl ether acetate	developmental, male	111-15-9	January 1, 1993
Ethylene glycol monomethyl ether acetate	developmental, male	110-49-6	January 1, 1993
Ethylene oxide	female	75-21-8	February 27, 1987
	developmental, male		August 7, 2009
Ethylene thiourea	developmental	96-45-7	January 1, 1993
2-Ethylhexanoic acid	developmental	149-57-5	August 7, 2009
<u>Delisted December 13, 2013</u>			
Etodolac	developmental, female	41340-25-4	August 20, 1999
Etoposide	developmental	33419-42-0	July 1, 1990
Etretinate	developmental	54350-48-0	July 1, 1987
Fenoxaprop ethyl	developmental	66441-23-4	March 26, 1999
Filgrastim	developmental	121181-53-1	February 27, 2001
Fluazifop butyl	developmental	69806-50-4	November 6, 1998
Flunisolide	developmental, female	3385-03-3	May 15, 1998
Fluorouracil	developmental	51-21-8	January 1, 1989
Fluoxymesterone	developmental	76-43-7	April 1, 1990
Flurazepam hydrochloride	developmental	1172-18-5	October 1, 1992
Flurbiprofen	developmental, female	5104-49-4	August 20, 1999
HFlutamide	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
aloperidol	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	developmental, male	684-16-2	August 1, 2008
Hexamethylphosphoramide	male	680-31-9	October 1, 1994
2,5-Hexanedione	male	110-13-4	December 4, 2015
Histrelin acetate	developmental	—	May 15, 1998
Hydramethylnon	developmental, male	67485-29-4	March 5, 1999
Hydrogen cyanide (HCN) and cyanide salts (CN salts)	male	—	July 5, 2013
Hydroxyurea	developmental	127-07-1	May 1, 1997
Idarubicin hydrochloride	developmental, male	57852-57-0	August 20, 1999
Ifosfamide	developmental	3778-73-2	July 1, 1990
Iodine-131	developmental	10043-66-0	January 1, 1989
Isotretinoin	developmental	4759-48-2	July 1, 1987

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Lead	developmental, female, male	—	February 27, 1987
Leuprolide acetate	developmental, female, male	74381-53-6	August 26, 1997
Levodopa	developmental	59-92-7	January 29, 1999
Levonorgestrel implants	female	797-63-7	May 15, 1998
Linuron	developmental	330-55-2	March 19, 1999
Lithium carbonate	developmental	554-13-2	January 1, 1991
Lithium citrate	developmental	919-16-4	January 1, 1991
Lorazepam	developmental	846-49-1	July 1, 1990
Lovastatin	developmental	75330-75-5	October 1, 1992
Mebendazole	developmental	31431-39-7	August 20, 1999
Medroxyprogesterone acetate	developmental	71-58-9	April 1, 1990
Megestrol acetate	developmental	595-33-5	January 1, 1991
Melphalan	developmental	148-82-3	July 1, 1990
Menotropins	developmental	9002-68-0	April 1, 1990
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
Metham sodium	developmental	137-42-8	May 15, 1998
Methanol	developmental	67-56-1	March 16, 2012
Methazole	developmental	20354-26-1	December 1, 1999
Methimazole	developmental	60-56-0	July 1, 1990
Methotrexate	developmental	59-05-2	January 1, 1989
Methotrexate sodium	developmental	15475-56-6	April 1, 1990
Methyl bromide as a structural fumigant	developmental	74-83-9	January 1, 1993
Methyln-n-butyl ketone	developmental male	591-78-6	December 4, 2015 August 7, 2009
Methyl chloride	developmental male	74-87-3	March 10, 2000 August 7, 2009
Methyl isobutyl ketone (MIBK)	developmental	108-10-1	March 28, 2014
Methyl isocyanate (MIC)	developmental, female	624-83-9	November 12, 2010
Methyl isopropyl ketone	developmental	563-80-4	February 17, 2012
<u>Delisted April 4, 2014</u>			
Methyl mercury	developmental	—	July 1, 1987
N-Methylpyrrolidone	developmental	872-50-4	June 15, 2001
$\alpha$ -Methyl styrene	female	98-83-9	July 29, 2011
<u>Delisted April 4, 2014</u>			
Methyltestosterone	developmental	58-18-4	April 1, 1990
Metiram	developmental	9006-42-2	March 30, 1999
Midazolam hydrochloride	developmental	59467-96-8	July 1, 1990
Minocycline hydrochloride (internal use)	developmental	13614-98-7	January 1, 1992
Misoprostol	developmental	59122-46-2	April 1, 1990
Mitoxantrone hydrochloride	developmental	70476-82-3	July 1, 1990
Molinate	developmental, female, male	2212-67-1	December 11, 2009
Myclobutanil	developmental, male	88671-89-0	April 16, 1999
Nabam	developmental	142-59-6	March 30, 1999
Nafarelin acetate	developmental	86220-42-0	April 1, 1990
Neomycin sulfate (internal use)	developmental	1405-10-3	October 1, 1992
Netilmicin sulfate	developmental	56391-57-2	July 1, 1990
Nickel carbonyl	developmental	13463-39-3	September 1, 1996

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Nicotine	developmental	54-11-5	April 1, 1990
Nifedipine	developmental, female, male	21829-25-4	January 29, 1999
Nimodipine	developmental	66085-59-4	April 24, 2001
Nitrapyrin	developmental	1929-82-4	March 30, 1999
Nitrobenzene	male	98-95-3	March 30, 2010
Nitrofurantoin	male	67-20-9	April 1, 1991
Nitrogen mustard (Mechlorethamine)	developmental	51-75-2	January 1, 1989
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	developmental	55-86-7	July 1, 1990
Nitrous oxide	developmental, female	10024-97-2	August 1, 2008
Norethisterone (Norethindrone)	developmental	68-22-4	April 1, 1990
Norethisterone acetate (Norethindrone acetate)	developmental	51-98-9	October 1, 1991
Norethisterone (Norethindrone)/Ethinyl estradiol	developmental	68-22-4/ 57-63-6	April 1, 1990
Norethisterone (Norethindrone)/Mestranol	developmental	68-22-4/ 72-33-3	April 1, 1990
Norgestrel	developmental	6533-00-2	April 1, 1990
Oxadiazon	developmental	19666-30-9	May 15, 1998
Oxazepam	developmental	604-75-1	October 1, 1992
p,p'-Oxybis(benzenesulfonyl hydrazide) <u>Delisted December 13, 2013</u>	developmental	80-51-3	August 7, 2009
Oxydemeton methyl	female, male	301-12-2	November 6, 1998
Oxymetholone	developmental	434-07-1	May 1, 1997
Oxytetracycline (internal use)	developmental	79-57-2	January 1, 1991
Oxytetracycline hydrochloride (internal use)	developmental	2058-46-0	October 1, 1991
Oxythioquinox (Chinomethionat)	developmental	2439-01-2	November 6, 1998
Paclitaxel	developmental, female, male	33069-62-4	August 26, 1997
Paramethadione	developmental	115-67-3	July 1, 1990
Penicillamine	developmental	52-67-5	January 1, 1991
Pentobarbital sodium	developmental	57-33-0	July 1, 1990
Pentostatin	developmental	53910-25-1	September 1, 1996
Phenacemide	developmental	63-98-9	July 1, 1990
Phenprocoumon	developmental	435-97-2	October 1, 1992
Phenyl glycidyl ether <u>Delisted April 4, 2014</u>	male	122-60-1	August 7, 2009
Phenylphosphine	developmental, male	638-21-1	August 7, 2009
Pimozide	developmental, female	2062-78-4	August 20, 1999
Pipobroman	developmental	54-91-1	July 1, 1990
Plicamycin	developmental	18378-89-7	April 1, 1990
Polybrominated biphenyls	developmental	—	October 1, 1994
Polychlorinated biphenyls	developmental	—	January 1, 1991
Potassium dimethyldithiocarbamate	developmental	128-03-0	March 30, 1999
Pravastatin sodium	developmental	81131-70-6	March 3, 2000
Prednisolone sodium phosphate	developmental	125-02-0	August 20, 1999
Procarbazine hydrochloride	developmental	366-70-1	July 1, 1990
Propargite	developmental	2312-35-8	June 15, 1999
<u>Propazine</u>	<u>developmental, female</u>	<u>139-40-2</u>	<u>July 15, 2016</u>
Propylthiouracil	developmental	51-52-5	July 1, 1990
Pyrimethamine	developmental	58-14-0	January 29, 1999

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
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
<u>Simazine</u>	<u>developmental, female</u>	<u>122-34-9</u>	<u>July 15, 2016</u>
Sodium dimethyldithiocarbamate	developmental	128-04-1	March 30, 1999
Sodium fluoroacetate	male	62-74-8	November 6, 1998
Streptomycin sulfate	developmental	3810-74-0	January 1, 1991
Streptozocin (streptozotocin)	developmental, female, male	18883-66-4	August 20, 1999
Sulfasalazine (Salicylazosulfapyridine)	male	599-79-1	January 29, 1999
Sulfur dioxide	developmental	7446-09-5	July 29, 2011
Sulindac	developmental, female	38194-50-2	January 29, 1999
Tamoxifen citrate	developmental	54965-24-1	July 1, 1990
Temazepam	developmental	846-50-4	April 1, 1990
Teniposide	developmental	29767-20-2	September 1, 1996
Terbacil	developmental	5902-51-2	May 18, 1999
Testosterone cypionate	developmental	58-20-8	October 1, 1991
Testosterone enanthate	developmental	315-37-7	April 1, 1990
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	developmental	1746-01-6	April 1, 1991
Tetracycline (internal use)	developmental	60-54-8	October 1, 1991
Tetracyclines (internal use)	developmental	—	October 1, 1992
Tetracycline hydrochloride (internal use)	developmental	64-75-5	January 1, 1991
Thalidomide	developmental	50-35-1	July 1, 1987
Thioguanine	developmental	154-42-7	July 1, 1990
Thiophanate methyl	female, male	23564-05-8	May 18, 1999
Tobacco smoke (primary)	developmental, female, male	—	April 1, 1988
Tobramycin sulfate	developmental	49842-07-1	July 1, 1990
Toluene	developmental female	108-88-3	January 1, 1991 August 7, 2009
Topiramate	developmental	97240-79-4	November 27, 2015
Triadimefon	developmental, female, male	43121-43-3	March 30, 1999
Triazolam	developmental	28911-01-5	April 1, 1990
Tributyltin methacrylate	developmental	2155-70-6	December 1, 1999
Trichloroethylene	developmental, male	79-01-6	January 31, 2014
Trientine hydrochloride	developmental	38260-01-4	February 27, 2001
Triforine	developmental	26644-46-2	June 18, 1999
1,3,5-Triglycidyl-s-triazinetriene <u>Delisted December 13, 2013</u>	male	2451-62-9	August 7, 2009
Trilostane	developmental	13647-35-3	April 1, 1990
Trimethadione	developmental	127-48-0	January 1, 1991

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
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, 1999
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, <del>male</del>	100-40-03	August 7, 2009
Vinyl cyclohexene dioxide (4-Vinyl-1-cyclohexene diepoxide)	female, <del>male</del>	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 15, 2016

**DECISION NOT TO PROCEED**

**CALIFORNIA HEALTH BENEFIT EXCHANGE**

Pursuant to Government Code Section 11347, the Board of the California Health Benefit Exchange hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register (CRNR), April 8, 2016 (Z2016-0329-03). The proposed rulemaking concerned standards for eligibility determination and enrollment for Qualified Health Plans (QHPs), Advance Payment of Premium Tax Credit (APTC); Cost-Sharing Reduction (CSR); and termination of coverage; and an appeals process for the Individual Exchange.

Any interested person with questions concerning this rulemaking should contact Mandy Garcia at either (916) 228-8432 or by e-mail at: [regulations@covered.ca.gov](mailto:regulations@covered.ca.gov).

The Board will also publish this Notice of Decision Not to Proceed on its website. The Board is not precluded from taking up this rulemaking action again in the future.

**PETITION DECISION**

**DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

June 24, 2016

Mr. Eric C. Karsgor  
30034 Skipjack Dr.  
Canyon Lake, Ca. 92587

Re: DECISION ON PETITION TO AMEND REGULATION

Dear Mr. Karsgor:

Thank you for your recent letter suggesting the amendment of regulations relating to the Beverage Container Recycling Program. The Department of Resources Recycling and Recovery, Division of Recycling (Division or DOR) appreciates the interest and concern in recycling you have shown.

The Division's current regulations give consumers the option of being paid by count for up to 50 empty beverage containers of each material type, instead of being paid by the weight of the containers. (Cal. Code Regs., title 14, § 2535(b)(1).) You point out that there are four material types (aluminum, plastic, glass and bi-metal), so consumers now have the option of being paid

for 200 containers, as long as there are no more than 50 of each material type. You suggest amending the regulation to allow consumers to be paid by count for up to 200 containers of any combination of material types.

The payment by count option is attractive to consumers, but it increases recycling center costs. The 50 containers per material type limit is meant to strike a balance between consumer motivation and recycling center costs. I believe your suggestion presents an acceptable new balance that the Division would like to adopt to provide more incentive for consumers to recycle, while causing only a marginal and manageable rise in costs to operators, in that the total number of containers subject to the option is not changing. Accordingly, I have directed Division staff to include your suggested amendment in a rulemaking package that is about to be filed.

My staff will inform you when the rulemaking containing your suggested amendment is filed with the Office of Administrative Law. That will begin a 45-day period during which the public may make comments on the proposed regulations. To show your support for the change you have suggested I encourage you to submit your comments on the proposed amendment during the rulemaking process.

The Division has accepted your letter as a petition for rulemaking under Government Code sections 11340.6 and 11340.7. The Division has the authority to take the action requested pursuant to Public Resources Code sections 14530.5 and 14536. In accordance with Government Code section 11340.7(d), a copy of this letter is being transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register. The Division contact person on this matter and the person from whom a copy of the petition may be obtained is Cheryl DuBose, Division of Recycling, 801 K Street, MS 19-01, Sacramento, California 95814, Cheryl.DuBose@CalRecycle.ca.gov, (916) 323-0728.

Thank you for bringing this issue to my attention and for suggesting a solution.

Sincerely,

James Nachbaur  
Deputy Director  
for Recycling

**DISAPPROVAL DECISION**

**DECISION OF DISAPPROVAL OF  
REGULATORY ACTION**

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

**DEPARTMENT OF PUBLIC HEALTH**

**State of California  
Office of Administrative Law**

**In re:  
Department of Public Health**

**Regulatory Action:**

**Title 17, California Code of Regulations**

**Amend sections: 1215.1, 1216, 1216.1, 1218, 1219, 1219.1, 1219.2, 1220, 1220.1, 1220.2, 1220.3, 1220.4, 1221, 1221.1, 1221.4**

**Repeal sections: 1215, 1217, 1217.1, 1217.2, 1217.3, 1217.4, 1217.5, 1217.6, 1217.7, 1217.8, 1218.1, 1218.2, 1219.3, 1221.2, 1221.3, 1222.2**

**DECISION OF DISAPPROVAL OF  
REGULATORY ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2016-0516-04**

**OAL Matter Type: Regular (S)**

**SUMMARY OF REGULATORY ACTION**

The Department of Public Health (Department) submitted to the Office of Administrative Law (OAL) its proposed rulemaking action to amend and repeal existing sections of Title 17 of the California Code of Regulations (CCR), which govern forensic alcohol testing

laboratories. The changes would amend the regulations regarding the requirements laboratories are held to when performing forensic alcohol testing and would update the regulations to reflect changes in the applicable Health and Safety Code statutes.

**DECISION**

OAL disapproved the above-referenced regulatory action because the Department did not meet APA procedural requirements due to its failure to accurately indicate changes to the regulations, pursuant to Government Code sections 11343 and 11346.8, and California Code of Regulations, title 1, sections 8 and 46.

This APA issue must be resolved prior to OAL's approval of any resubmission.

**CONCLUSION**

For these reasons OAL disapproved the above-referenced rulemaking action. If you have any questions, please do not hesitate to contact me at (916) 323-8915.

Date: July 5, 2016

\_\_\_\_\_  
Beverly J. Johnson  
Deputy Director

For: Debra M. Cornez  
Director

Original: Dr. Karen Smith  
Copy: Dawn Basciano

**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# 2016-0520-05  
BOARD OF EDUCATION  
No Child Left Behind Teacher Requirements

In this action without regulatory effect the State Board of Education is repealing fifteen sections in title 5 of the California Code of Regulations. These regulations were authorized under section 1119 of the federal No Child Left Behind Act (NCLB). NCLB has been repealed and replaced with the Every Student Succeeds Act which has repealed section 1119 in its entirety. The highly qualified teacher requirement set forth in section 1119 of NCLB is no longer applicable beginning in the 2016-17 school year. Section 1119 of NCLB was codified in title 29 of the United States Code Section 6319, repealed by Public Law 114-95, Title 1, Section 1000(1) (2015).

Title 5

REPEAL: 6100, 6101, 6102, 6103, 6104, 6105, 6110, 6111, 6112, 6113, 6115, 6116, 6120, 6125, 6126

Filed 07/05/2016

Agency Contact: Hillary Wirick (916) 319-0644

File# 2016-0519-01

**CALIFORNIA ENERGY COMMISSION**  
Amendments to Appliance Efficiency Regulations

In this second resubmitted regulatory action, the Commission amends various sections in title 20 of the California Code of Regulations to update its regulations related to appliance efficiency. The amendments add and update definitions, test methods, standards, data submittal requirements, and marking requirements for numerous appliances, such as air filters, deep-dimming fluorescent lamp ballasts, refrigerators, and freezers, among others.

Title 20

AMEND: 1601, 1602, 1604, 1605.1, 1605.2, 1605.3, 1606, 1607

Filed 06/30/2016

Effective 07/01/2016

Agency Contact: Harinder Singh (916) 654-4091

File# 2016-0524-05

**CALIFORNIA HORSE RACING BOARD**  
Safety Vest Required

This rulemaking action amends section 1689.1 of title 4 of the California Code of Regulations to increase rider safety. Currently, section 1689.1 requires jockeys, apprentice jockeys, exercise riders, drivers, and assistant starters to wear a safety vest while riding, training, or exercising any horse on the grounds of a racing association, racing fair, or authorized training facility. This amendment adds that any person licensed by the Board who is mounted on a horse on a track on said grounds must wear a safety vest.

Title 4  
AMEND: 1689.1  
Filed 07/05/2016  
Effective 10/01/2016  
Agency Contact: Laurel Houle (916) 274-6043

File# 2016-0621-02  
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY  
CPCFA — Bond Program General Fees and Small Business Assistance Fund (SBAF) Fee

This action (1) waives the bond refunding fee formula to small businesses where new money amount issue is larger than the amount of the bonds refunded; (2) temporarily waives the Small Business Assistance Fund (SBAF) fee; and (3) temporarily waives half of the SBAF fee upon expiration of the SBAF fee waiver.

Title 4  
AMEND: 8034, 8035  
Filed 06/29/2016  
Effective 06/29/2016  
Agency Contact: Andrea Gonzalez (916) 651-7284

File# 2016-0610-02  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
Religious Diets

This rulemaking action by the Department of Corrections and Rehabilitation (Department) is an emergency of operational necessity pursuant to Penal Code section 5058.3. This action amends various sections in title 15 of the California Code of Regulations to modify the procedures for participation in religious, vegetarian, and kosher diet programs.

Title 15  
AMEND: 3000, 3054, 3054.1, 3054.2, 3054.3, 3054.4, 3054.5  
Filed 06/29/2016  
Effective 06/29/2016  
Agency Contact: Sarah Pollock (916) 445-2308

File# 2016-0519-02  
DEPARTMENT OF FOOD AND AGRICULTURE  
Ultra-Filtered Milk Products

This certificate of compliance makes permanent emergency rulemaking actions 2015-0804-01E and 2016-0329-05EE, which were adopted by the Department of Food and Agriculture to establish minimum compositional standards for ultra-filtered milk products in title 3 of the California Code of Regulations.

Title 3  
ADOPT: 450, 450.1, 450.2, 450.3, 450.4, 451, 452  
Filed 06/30/2016  
Effective 06/30/2016  
Agency Contact: Nancy Grillo (916) 900-5033

File# 2016-0523-01  
DEPARTMENT OF FOOD AND AGRICULTURE  
Asian Citrus Psyllid Interior Quarantine

This Certificate of Compliance filed by the Department of Food and Agriculture will make permanent its prior emergency regulatory action (OAL file no. 2015-1123-04E) that expanded the quarantine area for the Asian Citrus Psyllid (ACP) *Diaphorina citri* by approximately 32 miles in the Bakersfield area and 111 square miles in the Taft area of Kern County. The effect of the emergency action provides authority for the state to perform quarantine activities against ACP within this additional area, along with the existing regulated areas in the state already under quarantine for the ACP.

Title 3  
AMEND: 3435(b)  
Filed 07/05/2016  
Effective 07/05/2016  
Agency Contact: Sara Khalid (916) 403-6625

File# 2016-0523-02  
DEPARTMENT OF FOOD AND AGRICULTURE  
Asian Citrus Psyllid Interior Quarantine

This Certificate of Compliance filed by the Department of Food and Agriculture will make permanent its prior emergency regulatory action (OAL file no. 2015-1123-05E) that expanded the quarantine area for the Asian Citrus Psyllid (ACP) *Diaphorina citri* by approximately 64 square miles in the Daly City area of San Mateo County and into San Francisco County. The effect of this action provides authority for the state to perform quarantine activities against ACP within this additional area, along with the existing regulated areas in the state already under quarantine for the ACP.

Title 3  
AMEND: 3435(b)  
Filed 07/05/2016  
Effective 07/05/2016  
Agency Contact: Sara Khalid (916) 403-6625

File# 2016-0629-01  
DEPARTMENT OF FOOD AND AGRICULTURE  
Asian Citrus Psyllid Interior Quarantine

This emergency rulemaking by the Department of Food and Agriculture (the "Department") creates a quarantine area for the Asian Citrus Psyllid ("ACP") *Diaphorina citri* in the Modesto area of Stanislaus County. The Modesto quarantine area is approximately

98 square miles and is being created in response to the identification of one adult ACP on June 14, 2016. This emergency action provides authority for the State to perform quarantine activities against ACP within this additional area.

Title 3  
 AMEND: 3435(b)  
 Filed 06/30/2016  
 Effective 06/30/2016  
 Agency Contact: Sara Khalid (916) 403-6625

File# 2016-0629-02  
 DEPARTMENT OF FOOD AND AGRICULTURE  
 Asian Citrus Psyllid Interior Quarantine

This emergency rulemaking action by the Department of Food and Agriculture will establish the quarantine area for the Asian Citrus Psyllid ((ACP) *Diaphorina citri*) of approximately 111 square miles in the Salinas area of Monterey County. The effect of this emergency action provides authority for the State to perform quarantine activities against ACP within this established area, along with the other existing regulated areas in the state.

Title 3  
 AMEND: 3435(b)  
 Filed 06/30/2016  
 Effective 06/30/2016  
 Agency Contact: Sara Khalid (916) 403-6625

File# 2016-0520-07  
 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
 Income Limits

This regulatory action by the Department of Housing and Community Development is the annual update of income limits for households of varying sizes. The Department transmitted this action to OAL for filing with the Secretary of State and publishing in the California Code of Regulations pursuant to Health and Safety Code section 50093. This filing is exempt from the rulemaking requirements of Articles 5 and 6 of Chapter 3.5 of the Administrative Procedure Act, and thus, is not subject to OAL's review. (Health & Saf. Code, § 50093.) This regulation is effective 5/20/2016, the date the regulation was filed with OAL pursuant to Health and Safety Code section 50093.

Title 25  
 ADOPT: 6924, 6932 REPEAL: 6924, 6932  
 Filed 07/05/2016  
 Effective 05/20/2016  
 Agency Contact: Tamara Tran (916) 263-7475

File# 2016-0630-03  
 Department of Public Health  
 Prenatal Screening Fee Increase

This deemed emergency file and print action, which is exempt from OAL review, amends the prenatal screening program fees. Although statute authorizes the Department of Public Health (DPH) to file directly with the Secretary of State, the Office of Administrative Law offered to process this action on behalf of DPH as an Emergency File & Print action.

Title 17  
 AMEND: 6540  
 Filed 07/01/2016  
 Effective 07/01/2016  
 Agency Contact: Laurel Prior (916) 440-7673

File# 2016-0630-02  
 DEPARTMENT OF PUBLIC HEALTH  
 Newborn Screening Fee Increase

This deemed emergency file and print action, which is exempt from OAL review, amends the newborn screening program fees. Although statute authorizes the Department of Public Health (DPH) to file directly with the Secretary of State, the Office of Administrative Law offered to process this action on behalf of DPH as an Emergency File & Print action.

Title 17  
 AMEND: 6508  
 Filed 07/01/2016  
 Effective 07/01/2016  
 Agency Contact: Laurel Prior (916) 440-7673

File# 2016-0622-01  
 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY  
 Electronic Waste Recycling — Recycling and Recovery Payment Rates

This action was submitted by the Department of Resources Recycling and Recovery as a "file and print" file to adjust the standard statewide covered electronic waste (CEW) recovery and recycling payment rates. This proposed adjustment falls within the rate, price or tariff exemption of Government Code section 11340.9(g), and therefore, is exempt from the regular rulemaking process and OAL's review. The Standard Statewide Recovery Payment Rate is increased from 18 cents per pound to 19 cents per pound. The Standard Statewide Combined Recovery and Recycling Payment Rate is increased from 44 cents per pound to 49 cents per pound.

Title 14  
 AMEND: 18660.23, 18660.24, 18660.25,  
 18660.33, 18660.34  
 Filed 06/30/2016  
 Effective 07/01/2016  
 Agency Contact: Elliot Block (916) 341-6080

File# 2016-0523-04  
**FISH AND GAME COMMISSION**  
 Fishing Activity Records and CPFV Logbooks

The Fish and Game Commission is amending two sections in title 14 of the California Code of Regulations. These amendments are being made to allow owners and operators of commercial fishing vessels, holders of commercial fishing licenses or permits participating in specified fisheries, and the owners and license holders of commercial passenger fishing vessels to keep and submit required records electronically. The amendments further clarify that the required logbook (records of fishing activities) must be kept on board the vessel and available for inspection. The Commission is also adopting two documents relied upon in this rule-making.

Title 14  
 AMEND: 190, 195  
 Filed 06/30/2016  
 Effective 06/30/2016  
 Agency Contact: Caren Woodson (916) 653-4899

File# 2016-0531-01  
**OFFICE OF THE STATE FIRE MARSHAL**  
 Firefighter Training and Certification

The Office of the State Fire Marshal (OSFM) is amending several sections in title 19 of the California Code of Regulations in this rulemaking. These amendments are designed to better define the regulatory requirements of the SFM Fire Service Training and Education Program and the enforcement and maintenance of those requirements for students, instructors and academies. The OSFM is also adopting eighteen incorporated by reference documents, updating two and eliminating one.

Title 19  
 AMEND: 1980.00, 1980.02, 1980.04, 1980.05,  
 1980.06 1990.00, 1990.01, 1990.02, 1990.03,  
 1990.04, 1990.05, 1990.06, 1990.07, 1990.08,  
 1990.11, 1990.12  
 Filed 06/30/2016  
 Effective 07/01/2016  
 Agency Contact: Diane Arend (916) 324-9592

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN February 3, 2016 TO  
 July 6, 2016**

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

**Title 2**

06/27/16 AMEND: 1897  
 06/23/16 ADOPT: 17010, 17011, 17012, 17013,  
 17014, 17030, 17031, 17032, 17033,  
 17034, 17035, 17036, 17037, 17038,  
 17039, 17040, 17041, 17042, 17043,  
 17044, 17045, 17046, 17047 REPEAL:  
 17010, 17030, 17111, 17112, 17113,  
 17120, 17121, 17122, 17130, 17140,  
 17141, 17142, 17150, 17151, 17152,  
 17153, 17160, 17200, 17201, 17210,  
 17220, 17300, 17400, 17402, 17403,  
 17404, 17405, 17406, 17408, 17412,  
 17414, 17416, 17418, 17420, 17422,  
 17424, 17426, 17430, 17432, 17434,  
 17435, 17436, 17440, 17442, 17444,  
 17446, 17448, 17450, 17452, 17454,  
 17458, 17460, 17461, 17463, 17464,  
 17466, 17468, 17470, 17471, 17473,  
 17475, 17477, 17478, 17481, 17482,  
 17483, 17485, 17486, 17488, 17490,  
 17491, 17493, 17495, 17498, 17500,  
 17502, 17504, 17508, 17510, 17512,  
 17514, 17515, 17516, 17518, 17519,  
 17520, 17521, 17525, 17527, 17528,  
 17530, 17532, 17534, 17538, 17542,  
 17544, 17546, 17548, 17550, 17551,  
 17552, 17553, 17554, 17555, 17556,  
 17557, 17558, 17559, 17560, 17561,  
 17562, 17563, 17564, 17565, 17566,  
 17567, 17570, 17571, 17572, 17575,  
 17576, 17580, 17581, 17582, 17588,  
 17590, 17592  
 05/25/16 AMEND: 604  
 05/23/16 AMEND: 23000  
 05/19/16 ADOPT: 18750 REPEAL: 18750,  
 18750.1, 18750.2, 18752  
 04/21/16 AMEND: 599.744  
 04/12/16 AMEND: 18239  
 04/12/16 AMEND: 18616

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

03/22/16	AMEND: 18215.3, 18247.5, 18404, 18405, 18422, 18425, 18427.1, 18450.4, 18531.5, 18531.62 REPEAL: 18402.5	03/08/16	AMEND: 3435(b)
03/22/16	AMEND: 18406, 18530.4, 18530.45, 18992	02/17/16	AMEND: 6000, 6445, 6447, 6447.2, 6447.3, 6448.1, 6449.1, 6450.1, 6452, 6452.2, 6784
02/22/16	ADOPT: 61000, 61001, 61002, 61003, 61004, 61005, 61006, 61007, 61008, 61009, 61010, 61011, 61012, 61013, 61014, 61015, 61016, 61017, 61018, 61019, 61020, 61021, 61022, 61023, 61024	02/17/16	AMEND: 3439(b)
02/22/16	ADOPT: 59800	02/09/16	AMEND: 3435(b)
02/11/16	AMEND: 57200	<b>Title 4</b>	
02/10/16	AMEND: 57200	07/05/16	AMEND: 1689.1
02/04/16	ADOPT: 555.5	06/29/16	AMEND: 8034, 8035
02/04/16	AMEND: 18351	06/15/16	ADOPT: 299 AMEND: 297, 300
02/04/16	AMEND: 18616	06/14/16	AMEND: 5000, 5033, 5052, 5144, 5205, 5220, 5221, 5230
<b>Title 3</b>		04/27/16	AMEND: 10170.2, 10170.3, 10170.4, 10170.5, 10170.6, 10170.7, 10170.8, 10170.9, 10170.10, 10170.11, 10170.12
07/05/16	AMEND: 3435(b)	04/25/16	ADOPT: 1866.1 AMEND: 1844
07/05/16	AMEND: 3435(b)	04/21/16	ADOPT: 610
06/30/16	ADOPT: 450, 450.1, 450.2, 450.3, 450.4, 451, 452	04/13/16	ADOPT: 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7, 10091.8, 10091.9, 10091.10, 10091.11, 10091.12, 10091.13, 10091.14, 10091.15
06/30/16	AMEND: 3435(b)	04/12/16	AMEND: 1489
06/30/16	AMEND: 3435(b)	03/28/16	AMEND: 10176(d), 10181
06/28/16	AMEND: 3435(b)	03/23/16	ADOPT: 12465 AMEND: 12460, 12461, 12462, 12463, 12464, 12466
06/22/16	AMEND: 3435(b)	03/10/16	ADOPT: 5258, 5271, 5273 AMEND: 5033, 5052, 5100, 5102 (renumbered to 5101), 5103 (renumbered to 5102), 5104 (renumbered to 5103), 5105 (renumbered to 5104), 5106 (renumbered to 5105), 5107 (renumbered to 5106), 5132, 5170, 5190, 5191, 5192, 5200, 5205, 5210, 5230, 5232, 5250, 5255, 5260, 5267 REPEAL: 5101
06/22/16	AMEND: 3435(b)	03/08/16	AMEND: 1658
06/20/16	AMEND: 3591.12	03/03/16	AMEND: 10176, 10179, 10180, 10181
06/16/16	AMEND: 3435(b)	02/04/16	AMEND: 5000, 5033, 5052, 5144, 5205, 5220, 5221, 5230
06/13/16	AMEND: 3435(b)	<b>Title 5</b>	
06/13/16	AMEND: 3435(b)	07/05/16	REPEAL: 6100, 6101, 6102, 6103, 6104, 6105, 6110, 6111, 6112, 6113, 6115, 6116, 6120, 6125, 6126
06/08/16	AMEND: 850	06/15/16	REPEAL: 3820, 3822, 3823, 3824, 3831, 3840, 3860, 3870
06/06/16	ADOPT: 1358.7	05/31/16	REPEAL: 9517.1, 9531, 9532, 9535
06/02/16	AMEND: 3439(b)	05/31/16	ADOPT: 11533, 11534 AMEND: 11530, 11531
06/02/16	AMEND: 3435(b)	05/31/16	ADOPT: 11524, 11525 AMEND: 11520, 11521, 11522
06/01/16	AMEND: 3435(b)	05/18/16	ADOPT: 851.5, 853.6, 853.8, 860 AMEND: 850, 851, 853, 853.5, 853.7, 855, 857, 858, 859, 861, 862, 862.5, 863, 864
05/25/16	AMEND: 3435(b)	04/25/16	AMEND: 41906.5, 41906.6
05/23/16	AMEND: 3435(b)		
05/18/16	AMEND: 3435		
05/17/16	AMEND: 3906		
05/12/16	AMEND: 3435(b)		
05/12/16	AMEND: 3435(b)		
05/11/16	AMEND: 3435(b)		
05/11/16	AMEND: 3435(b)		
05/10/16	AMEND: 3435(b)		
05/09/16	ADOPT: 3591.27		
04/25/16	AMEND: 3435(b)		
04/07/16	ADOPT: 450, 450.1, 450.2, 450.3, 450.4, 451, 452		
04/05/16	AMEND: 3589		
03/29/16	AMEND: 3435(b)		
03/21/16	AMEND: 3435		
03/10/16	AMEND: 3435(b)		
03/09/16	AMEND: 3435(b)		

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

03/28/16 ADOPT: 1700 6482, 6484, 6486, 6490, 6492, 6494,  
 03/22/16 ADOPT: 9526 6496, 6498, 6500, 6502, 6504, 6506,  
 03/21/16 AMEND: 80057.5, 80089.2 6508, 6510, 6600, 6602, 6604, 6606,  
 03/03/16 AMEND: 19810 6608, 6610, 6612, 6614, 6616, 6618,  
 02/26/16 AMEND: 27007 6620, 6622  
 02/24/16 AMEND: 80499 05/31/16 AMEND: 2500, 2501, 2503, 2504, 2505,  
 02/24/16 AMEND: 80014, 80014.1, 80066 2507.1, 2507.2, 2508 REPEAL: 2502  
 REPEAL: 80014.2 05/26/16 ADOPT: 6858  
 02/18/16 ADOPT: 40106 05/23/16 ADOPT: 6700, 6702, 6704, 6706, 6708,  
 6710, 6712, 6714, 6716, 6718

**Title 8**

06/28/16 AMEND: 5148(c) 05/11/16 ADOPT: 5508, 5509, 5510, 5511, 5512,  
 05/18/16 AMEND: 362, 364, 364.1 5513, 5514, 5515, 5516  
 04/12/16 AMEND: 3207, 3212 05/10/16 AMEND: 2318.6, 2353.1, 2354  
 03/23/16 AMEND: 9789.12.2, 9789.12.6, 05/10/16 AMEND: 2353.1  
 9789.12.8, 9789.12.13, 9789.13.1, 03/22/16 AMEND: 2544, 2544.1, 2544.2, 2544.3,  
 9789.15.4, 9789.16.1, 9789.16.2, 2544.4, 2544.5, 2544.6  
 9789.17.1, 9789.19 03/08/16 ADOPT: 2240.15, 2240.16, 2240.6,  
 03/14/16 AMEND: 9789.21, 9789.25 2240.7 AMEND: 2240, 2240.1, 2240.2,  
 03/14/16 AMEND: 333, 336 2240.3, 2240.4, 2240.5  
 03/07/16 AMEND: 4307 02/04/16 AMEND: 2201, 2202, 2203, 2204, 2205,  
 03/07/16 AMEND: 4412 2206, 2207, 2208, 2209, 2210, 2211,  
 03/04/16 AMEND: 9785.4.1 2212, 2213, 2214, 2215, 2216, 2217,  
 02/25/16 AMEND: 3328 2218

**Title 9**

06/27/16 ADOPT: 4600, 4601, 4602  
 06/06/16 AMEND: 811, 812, 823, 836.2, 862, 865,  
 865.4, 865.5  
 05/31/16 ADOPT: 7006.5 AMEND: 7019.1, 7020,  
 7024, 7029.9, 7054, 7055, 7060, 7062,  
 7062.3, 7122, 7143, 7157, 7164, 7164.4,  
 7194, 7198 REPEAL: 7004.3, 7019.2, 7022,  
 7029.3  
 05/12/16 AMEND: 7140, 7142, 7142.5, 7143.5,  
 7164.6, 7196, 7211, 7290, 7353.6  
 04/21/16 REPEAL: 1700, 1701, 1702, 1703, 1704,  
 1705, 1706, 1707, 1708, 1709, 1710,  
 1711, 1712, 1713, 1714, 1715, 1716,  
 1717, 1718, 1719, 1720, 1721, 1722,  
 1723, 1724, 1725, 1726, 1727, 1728,  
 1729, 1730, 1731, 1739, 1740, 1741,  
 1742, 1743, 1744, 1745, 1746, 1747,  
 1748, 1749, 1750, 1751, 1752, 1753,  
 1754, 1755, 1765, 1766, 1767, 1768,  
 1769, 1770, 1771, 1772, 1773, 1774,  
 1775, 1776, 1777, 1778, 1779, 1790,  
 1791, 1792, 1793, 1794, 1795, 1796,  
 1797, 1798, 1799

**Title 10**

06/14/16 ADOPT: 6540, 6542, 6544, 6546, 6548,  
 6550, 6552  
 06/07/16 ADOPT: 8100, 8110, 8120, 8130, 8140,  
 8150  
 06/06/16 ADOPT: 6408, 6410, 6450, 6452, 6454,  
 6470, 6472, 6474, 6476, 6478, 6480,

**Title 11**

06/22/16 AMEND: 1004, 1011  
 06/09/16 AMEND: 1005, 1007, 1008, 1009, 1010,  
 1011, 1054, 1058, 1070, 1081, 1082,  
 1084, 1960  
 06/01/16 AMEND: 51.22  
 04/28/16 ADOPT: 2080, 2081, 2082, 2083, 2084,  
 2085, 2086, 2087, 2088, 2089, 2090,  
 2091, 2092, 2093, 2094, 2095, 2096,  
 2097, 2098, 2099, 2100, 2101, 2102,  
 2103, 2104, 2105, 2106, 2107, 2108,  
 2109, 2130, 2131, 2132  
 04/25/16 ADOPT: 50.24  
 04/06/16 ADOPT: 28.5  
 04/06/16 ADOPT: 28.6  
 03/23/16 ADOPT: 4250, 4251, 4251.5, 4252,  
 4253, 4254, 4255, 4256, 4257, 4258,  
 4559  
 03/10/16 AMEND: 20  
 02/24/16 AMEND: 1005, 1007, 1008, 1052  
 02/24/16 AMEND: 1951, 1953, 1954, 1955  
 02/17/16 AMEND: 1005, 1081

**Title 12**

06/17/16 ADOPT: 509  
 05/23/16 ADOPT: 462

**Title 13**

06/23/16 ADOPT: 15.08 AMEND: 15.07  
 06/23/16 AMEND: 268.10  
 05/09/16 AMEND: 156.00, 156.01  
 04/06/16 ADOPT: 150.10  
 02/29/16 AMEND: 553.70

**CALIFORNIA REGULATORY NOTICE REGISTER 2016, VOLUME NO. 29-Z**

02/25/16 AMEND: 551.8, 551.12, 591, 592  
 02/08/16 ADOPT: 2850, 2851, 2852, 2853, 2854,  
 2855, 2856, 2857, 2858, 2859, 2860,  
 2861, 2862, 2863, 2864, 2865, 2866,  
 2867, 2868, 2869 AMEND: 2440, 2442

**Title 14**

06/30/16 AMEND: 190, 195  
 06/30/16 AMEND: 18660.23, 18660.24,  
 18660.25, 18660.33, 18660.34  
 06/23/16 AMEND: 502, 507  
 06/16/16 AMEND: 120.7  
 06/15/16 ADOPT: 8.01  
 06/09/16 AMEND: 7.50  
 05/25/16 AMEND: 1670  
 05/11/16 AMEND: 17852  
 05/02/16 AMEND: 29.85  
 04/28/16 ADOPT: 131  
 04/27/16 AMEND: 27.80  
 04/26/16 AMEND: 29.45  
 04/26/16 AMEND: 28.20  
 04/20/16 ADOPT: 1760.1, 1779.1  
 04/06/16 AMEND: 1038  
 03/29/16 AMEND: 27.80  
 03/28/16 ADOPT: 8.01  
 03/07/16 ADOPT: 749.8  
 03/01/16 AMEND: 7.50  
 02/29/16 ADOPT: 1.57, 5.41 AMEND: 1.05, 1.53,  
 1.86, 2.00, 5.60, 5.80, 5.81, 7.00, 7.50,  
 27.00, 230  
 02/23/16 AMEND: 632  
 02/18/16 ADOPT: 748.5  
 02/10/16 ADOPT: 672, 672.1, 672.2  
 02/10/16 AMEND: 17381.2  
 02/09/16 AMEND: 3550.11  
 02/05/16 AMEND: 1724.9

**Title 15**

06/29/16 AMEND: 3000, 3054, 3054.1, 3054.2,  
 3054.3, 3054.4, 3054.5  
 06/21/16 ADOPT: 3359.8  
 06/02/16 AMEND: 3000, 3084.7, 3312, 3313,  
 3314, 3315, 3316, 3317, 3317.1, 3317.2,  
 3320, 3322, 3326, 3340, 3341.3, 3376,  
 3378.6  
 05/24/16 ADOPT: 3317.1, 3317.2 AMEND: 3310,  
 3315, 3317  
 05/11/16 AMEND: 3000, 3213  
 05/10/16 AMEND: 3173.2  
 04/28/16 AMEND: 3000  
 03/30/16 AMEND: 8004.2  
 03/30/16 REPEAL: 3999.16  
 03/29/16 AMEND: 3315, 3375.2  
 03/29/16 AMEND: 3000, 3078.1, 3078.2, 3078.3,  
 3078.4

03/10/16 ADOPT: 3000, 3268.2 REPEAL:  
 3999.17

02/18/16 ADOPT: 3040.2 AMEND: 3000, 3040.1,  
 3041, 3041.3, 3043.6, 3379 REPEAL:  
 3999.15

02/18/16 AMEND: 3375.1, 3377

**Title 16**

06/22/16 AMEND: 438  
 06/16/16 AMEND: 109  
 06/07/16 ADOPT: 1100  
 06/07/16 ADOPT: 1101, 1121, 1122, 1124, 1126,  
 1127, 1133  
 06/07/16 ADOPT: 1104, 1104.1, 1104.2  
 05/26/16 ADOPT: 1815.5  
 05/13/16 AMEND: 910  
 05/10/16 AMEND: 2403  
 05/04/16 AMEND: 4170  
 05/03/16 ADOPT: 2326.2, 2326.3 AMEND: 2326,  
 2326.1, 2326.5  
 04/28/16 AMEND: 1417  
 04/20/16 ADOPT: 1103, 1105, 1105.1, 1105.2,  
 1105.3, 1105.4, 1106  
 04/20/16 AMEND: 1715, 1784  
 04/11/16 AMEND: 1399.523  
 04/08/16 ADOPT: 1746.1  
 04/04/16 AMEND: 974  
 03/22/16 AMEND: 1970.4  
 03/21/16 AMEND: 1380.5  
 03/07/16 AMEND: 1001  
 03/03/16 ADOPT: 1463.5, 1485.5  
 02/29/16 ADOPT: 1960  
 02/24/16 AMEND: 1446, 1447, 1447.1  
 02/23/16 AMEND: 109, 111  
 02/18/16 ADOPT: 1108  
 02/08/16 AMEND: 1417

**Title 17**

07/01/16 AMEND: 6540  
 07/01/16 AMEND: 6508  
 05/25/16 AMEND: 1050  
 05/24/16 AMEND: 2500, 2502, 2505  
 04/25/16 AMEND: 100800  
 04/04/16 ADOPT: 6500.03, 6500.05, 6500.9,  
 6500.21, 6500.33, 6500.43, 6500.50,  
 6500.51, 6500.55, 6500.58, 6500.71,  
 6500.78, 6501.5 AMEND: 6500.35,  
 6500.39, 6500.45, 6501, 6505, 6506,  
 6506.6, 6506.8, 6506.10 REPEAL:  
 6500.65, 6500.67  
 03/08/16 AMEND: 60201  
 02/05/16 ADOPT: 59050, 59051, 59052, 59053,  
 59054, 59055, 59056, 59057, 59058,  
 59059, 59060, 59061, 59062, 59063,

59064, 59065, 59066, 59067, 59068,  
59069, 59070, 59071, 59072  
02/03/16 AMEND: 95000 REPEAL: 95001,  
95002, 95003, 95004, 95005, 95006,  
95007

**Title 18**

06/28/16 AMEND: 1698, 4901  
06/21/16 AMEND: 1432  
04/22/16 AMEND: 1668  
04/20/16 AMEND: 5600, 5601, 5603  
03/28/16 AMEND: 2401, 2413, 2422  
03/17/16 AMEND: 3500  
02/03/16 AMEND: 5218, 5235, 5237, 5267

**Title 19**

06/30/16 AMEND: 1980.00, 1980.02, 1980.04,  
1980.05, 1980.06 1990.00, 1990.01,  
1990.02, 1990.03, 1990.04, 1990.05,  
1990.06, 1990.07, 1990.08, 1990.11,  
1990.12  
06/20/16 ADOPT: 2700, 2701, 2702, 2703, 2704,  
2705, 2706, 2707, 2708, 2709, 2710  
05/11/16 ADOPT: 2621, 2622, 2630, 2631, 2632,  
2640, 2642, 2643, 2644, 2645, 2646,  
2647, 2648, 2651, 2652, 2653, 2654,  
2655, 2656, 2657, 2658, 2659, 2670,  
2671 AMEND: 2650 renumbered to  
2621, 2660 renumbered to 2622, 2701  
renumbered to 2630, 2703 renumbered to  
2631, 2705 renumbered to 2632, 2720  
amended and renumbered to 2640, 2722  
renumbered to 2642, 2723 amended and  
renumbered to 2643, 2724 renumbered to  
2644, 2725 amended and renumbered to  
2645, 2726 renumbered to 2646, 2727  
renumbered to 2647, 2728 renumbered to  
2648, 2729 amended and renumbered to  
2650, 2729.1 amended and renumbered  
to 2651, 2729.2 amended and  
renumbered to 2652, 2729.3 amended  
and renumbered to 2653, 2729.4  
amended and renumbered to 2654,  
2729.5 amended and renumbered to  
2655, 2729.6 amended and renumbered  
to 2656, 2729.7 amended and  
renumbered to 2657, 2731 renumbered to  
2658, 2732 amended and renumbered to  
2659, 2733 amended and renumbered to  
2670, 2734 renumbered to 2671

**Title 20**

06/30/16 AMEND: 1601, 1602, 1604, 1605.1,  
1605.2, 1605.3, 1606, 1607  
04/12/16 AMEND: 1240, 3201, 3202, 3203, 3204,  
3206, 3207  
04/06/16 AMEND: 2401, 2402

03/08/16 AMEND: 2.1  
02/10/16 AMEND: 1601, 1604, 1605.3

**Title 21**

05/09/16 ADOPT: 133, 134, 135, 136, 137, 138,  
141, 151, 161, 162, 163, 164, 165, 171  
AMEND: 111, 112, 113, 114, 121, 131,  
133 (renumbered to 132) REPEAL: 132,  
134, 135, 136, 141, 151, 152, 153

**Title 22**

06/28/16 REPEAL: 75047  
06/20/16 AMEND: 51179.7  
06/09/16 ADOPT: 69600.1, 69600.2, 69600.3,  
69600.4, 69600.5, 69600.6, 69600.7  
06/08/16 AMEND: 7000  
04/27/16 AMEND: 53626(a)  
04/21/16 AMEND: 50188  
04/19/16 AMEND: 123000  
04/01/16 AMEND: 64417, 64418, 64418.1,  
64418.2, 64418.3, 64418.4, 64418.5,  
64418.6, 64418.7, 64419, 64420,  
64420.1, 64420.2, 64420.3, 64420.4,  
64420.5, 64420.6, 64420.7  
03/29/16 AMEND: 51516.1  
03/17/16 AMEND: 97232  
02/25/16 ADOPT: 100450.100  
02/23/16 AMEND: 69502.2  
02/11/16 ADOPT: 51000, 51000.7, 51000.9.5,  
51000.15.5, 51000.20, 51000.24.3,  
51000.24.4, 51000.24.4.1, 51000.24.5,  
51000.24.8, 51000.30, 51000.31,  
51000.35, 51000.40, 51000.45,  
51000.60, 51000.70, 51000.75, 51051,  
51341.1  
02/08/16 AMEND: 100143, 100146, 100149,  
100152, 100153, 100154 (renumbered to  
100159), 100155 (renumbered to  
100161), 100156 (renumbered to  
100160), 100157 (renumbered to  
100162), 100159 (renumbered to  
100154), 100160 (renumbered to  
100155), 100161 (renumbered to  
100156), 100162 (renumbered to  
100157), 100163 (renumbered to  
100164), 100164 (renumbered to  
100163), 100165, 100167, 100172

**Title 22, MPP**

02/10/16 AMEND: 102352, 102416.5, 102417,  
102421

**Title 23**

06/02/16 ADOPT: 3919.16  
05/31/16 ADOPT: 863, 864, 864.5, 865, 866  
05/17/16 ADOPT: 3991.1 REPEAL: 3989  
05/04/16 AMEND: 3935, 3936, 3939.13  
04/14/16 ADOPT: 3939.48

04/11/16	ADOPT: 3939.49	12-202.8.82, 12-202.8.83, 12-202.8.84,
03/30/16	ADOPT: 876	12-202.8.84.841, 12-202.8.84.842,
03/21/16	ADOPT: 908, 911, 912, 916, 917, 922, 924, 931, 931.5, 932, 933, 934, 935, 936, 937, 938	12-202.8.85, 12-202.8.85.851, 12-203, 12-203.1, 12-203.1.11, 12-203.1.11.111, 12-203.1.11.112, 12-203.1.11.113, 12-203.1.11.113(a), 12-203.1.11.113(b), 12-203.1.11.113(c), 12-203.1.11.114, 12-203.1.11.114(a), 12-203.1.11.114(b), 12-203.1.11.114(c), 12-203.1.11.115, 12-203.2, 12-203.2.21, 12-203.2.22, 12-203.2.23, 12-203.3, 12-203.3.31, 12-203.3.32, 12-203.3.32.321, 12-203.3.32.322, 12-203.3.33, 12-203.4, 12-203.4.41, 12-203.4.42, 12-203.5, 12-203.6, 12-203.7, 12-203.7.71, 12-203.7.71.711, 12-203.7.71.712, 12-203.7.71.713, 12-203.7.72, 12-203.7.72.721, 12-203.7.73, 12-203.8, 12-204, 12-204.1, 12-204.1.11, 12-204.1.11.111, 12-204.1.11.112, 12-204.1.11.113, 12-204.1.11.114, 12-204.1.12, 12-204.1.13, 12-204.2, 12-204.3, 12-204.3.31, 12-204.3.31.311, 12-204.3.31.312, 12-204.3.31.313, 12-204.3.31.314, 12-204.3.31.315, 12-204.3.31.316, 12-205, 12-205.1, 12-205.1.11, 12-205.1.12, 12-205.1.13, 12-205.1.14, 12-205.1.15, 12-205.1.16, 12-205.1.17, 12-205.2, 12-205.2.21, 12-205.2.22, 12-205.2.23, 12-205.3, 12-205.3.31, 12-205.3.32, 12-205.4, 12-205.5, 12-205.5.51, 12-205.5.52, 12-205.5.53, 12-205.5.54, 12-205.5.55, 12-205.5.55.551, 12-205.5.55.552, 12-205.6, 12-205.6.61, 12-205.6.62, 12-205.6.62.621, 12-205.6.63, 12-205.6.63.631, 12-205.6.64, 12-205.6.65, 12-205.7, 12-206, 12-206.1, 12-206.2, 12-206.3, 12-206.3.31, 12-206.4, 12-206.4.41, 12-206.4.41.411, 12-206.4.41.411(a), 12-206.4.41.412, 12-206.4.41.412(a), 12-206.4.41.413, 12-206.4.41.413(a), 12-206.4.41.413(b), 12-206.4.41.413(c), 12-206.4.41.414, 12-206.4.41.415, 12-206.4.41.415(a), 12-206.4.41.416, 12-206.5, 12-207, 12-207.1, 12-207.1.11, 12-207.1.11.111, 12-207.1.11.112, 12-207.1.11.113, 12-207.2, 12-207.3, 12-207.3.31, 12-207.3.31.311,
02/11/16	ADOPT: 863, 864, 865, 866	
<b>Title 25</b>		
07/05/16	ADOPT: 6924, 6932 REPEAL: 6924, 6932	
02/25/16	ADOPT: 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8414 AMEND: 8400, 8401, 8410, 8412 (renumbered to 8411), 8416 (renumbered to 8412), 8417 (renumbered to 8413), 8419 (renumbered to 8415), 8420 (renumbered to 8416), 8421 (renumbered to 8417) REPEAL: 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8411, 8413, 8414, 8415, 8418	
02/18/16	AMEND: 10001	
<b>Title 27</b>		
06/27/16	AMEND: 27001	
06/22/16	AMEND: 27001	
06/13/16	AMEND: 27001	
06/13/16	AMEND: 25805	
05/09/16	AMEND: 10052	
04/18/16	AMEND: 25603.3	
04/13/16	AMEND: 27001	
02/08/16	AMEND: 25705	
<b>Title 28</b>		
03/28/16	AMEND: 1010	
<b>Title MPP</b>		
06/13/16	ADOPT: 30-754 AMEND: 30-701	
05/02/16	ADOPT: 45-102, 45-600, 45-601, 45-602, 45-604, 45-605, 45-606, 45-607 AMEND: 31-002, 31-003, 31-075, 31-201, 31-205, 31-206, 31-225, 31-425, 31-503, 90-101	
03/30/16	REPEAL: 12-201, 12-202, 12-202.1, 12-202.1.11, 12-202.1.11.111, 12-202.2, 12-202.2.21, 12-202.2.21.211, 12-202.2.21.212, 12-202.2.22, 12-202.2.23, 12-202.2.24, 12-202.3, 12-202.3.31, 12-202.3.31.311, 12-202.3.31.312, 12-202.3.31.313, 12-202.3.32, 12-202.3.33, 12-202.3.33.331, 12-202.4, 12-202.4.41, 12-202.5, 12-202.5.51, 12-202.5.52, 12-202.5.53, 12-202.5.54, 12-202.6, 12-202.6.61, 12-202.6.61.611, 12-202.6.61.612, 12-202.6.61.613, 12-202.6.62, 12-202.7, 12-202.8, 12-202.8.81,	

12-207.3.31.312, 12-207.3.31.312(a),  
12-207.3.31.312(b),  
12-207.3.31.312(c), 12-207.3.32,  
12-207.3.32.321, 12-207.3.32.322,  
12-207.3.32.322(a),  
12-207.3.32.322(b),  
12-207.3.32.322(c), 12-207.4,  
12-207.4.41, 12-207.4.42, 12-207.5,  
12-207.5.51, 12-207.5.52, 12-207.5.53,  
12-207.5.53.531, 12-207.5.53.532,  
12-207.5.53.533, 12-207.6,  
12-207.6.61, 12-207.6.62, 12-207.6.63,  
12-207.7, 12-207.7.71,  
12-207.7.71.711, 12-207.7.71.711(a),  
12-207.7.71.711(b), 12-207.8,  
12-207.8.81, 12-207.8.82, 12-210,  
12-210.1, 12-210.1.11, 12-211,

12-211.1, 12-211.2, 12-222, 12-222.1,  
12-222.1.11, 12-222.1.11.111,  
12-222.1.12, 12-224, 12-224.1,  
12.224.1.11, 12.224.1.12, 12.224.1.13,  
12-224.2, 12.224.2.21, 12-224.2.22,  
12-224.2.23, 12-225, 12-225.1,  
12-225.2, 12-225.2.21, 12-228,  
12-228.1, 12-228.1.11, 12-228.1.12,  
12-228.1.13, 12-228.1.13.131,  
12-228.1.13.132, 12-228.1.13.133,  
12-228.1.13.134, 12-228.1.14,  
12-228.2, 12-228.2.21,  
12-228.2.21.211, 12-228.2.21.212,  
12-228.2.22, 12-228.3, 12-228.4,  
12-228.5, 12-228.6, 12-228.6.61,  
12-228.6.62, 12-228.6.63, 12-228.6.64