



# California Regulatory Notice Register

REGISTER 2012, NO. 31-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

AUGUST 3, 2012

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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.

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

**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

**CONFLICT-OF-INTEREST CODES**

**AMENDMENT**

**MULTI-COUNTY:** Mann County Office of Education  
 Merced Community College  
 District  
 ABAG Publicly Owned Energy  
 Resources  
 San Luis Water District

**STATE:** California State Senate

A written comment period has been established commencing on August 3, 2012, and closing on September 17, 2012. Written comments should be directed to the Fair Political Practices Commission, Attention Adrienne Tackley, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested per-

son, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than September 17, 2012. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

**EFFECT ON HOUSING COSTS AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

**AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

**REFERENCE**

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

**CONTACT**

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Adrienne Tackley, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**AVAILABILITY OF PROPOSED  
CONFLICT-OF-INTEREST CODES**

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Adrienne Tackley, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**TITLE 2. PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM**

**NOTICE OF PROPOSED REGULATORY ACTION**

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations.

**I. PROPOSED REGULATORY ACTION**

In this filing, the Board proposes to add California Code of Regulations (CCR) § 599.506, subdivision (d), to Title 2, CCR entitled "Termination of Enrollment." This package proposes to clarify existing CalPERS Board authority and permit the CalPERS Board to provide amnesty to employees and annuitants who voluntarily terminate their ineligible dependent(s) enrollment in a CalPERS health benefits plan on or before June 30, 2013.

**II. WRITTEN COMMENT PERIOD**

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period has been established commencing on August 3, 2012 and closing on September 17, 2012 at 5:00 p.m. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via Fax at (916) 795-4607; E-mail at [Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov) or mailed to the following address:

Ryan Digman, Regulations Coordinator  
California Public Employees' Retirement System  
P.O. Box 942702  
Sacramento, CA 94229-2702  
Phone: (916) 795-0963

**III. PUBLIC HEARING**

Pursuant to Government Code (GC) § 11346.8, a public hearing on this matter has not been scheduled.

However, if an interested person, or his or her duly authorized representative, submits in writing to the CalPERS Regulations Coordinator a request for a public hearing at least 15 days prior to the close of the written comment period, September 4, 2012, a public hearing shall be scheduled before the CalPERS Pension & Health Benefits Committee. Notice of the time, date, and place of the hearing will be provided to every person who has filed a request for notice with CalPERS.

**IV. ACCESS TO HEARING ROOM**

The hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or visual impairments upon advance request to the CalPERS Regulations Coordinator.

**V. AUTHORITY AND REFERENCE**

The Board has general authority to take regulatory action under GC § 20121. The Board has specific authority to amend CCR § 599.506, subdivision (d)-(f), and add subdivision (d) pursuant to GC § 22792, 22794, and 22796, subdivision (a)(2). Reference citation: California GC § 20121, 22792, 22794 and 22796.

**VI. INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

In January 2011, the Board endorsed the Health Benefits Purchasing Review (HBPR) project to develop three to five year strategies and initiatives to ensure the continuation and sustainability of the CalPERS Health Benefits Program. The HBPR project was launched to evaluate health plan benefit design and purchasing strategies in order to ensure that the CalPERS Health Benefits Program meets the future needs of members and employers. In January 2012, CalPERS staff presented to the Board a list of strategies and initiatives which included eligibility verifications. The Board supported each of these initiatives and directed staff to move forward with further exploration. In May 2012, the Board approved CalPERS staff to pursue regulations that grant the Board authority to provide amnesty, for a specified time period, to employees or annuitants who voluntarily terminate their ineligible dependent(s) enrollment in a CalPERS health benefits plan.

Existing law, GC § 20085, states that it is unlawful for a person to knowingly do and/or present false information with the intent to be used to obtain, receive, continue, or increase any benefit administered by CalPERS. Currently, GC § 20085 does not allow amnesty for employees and annuitants who voluntarily terminate their ineligible dependent(s) enrollment in a CalPERS health benefits plan.

Existing CCR § 599.506 defines the "Termination of Enrollment" process for CalPERS members. This Sec-

tion provides specific information about disenrollment dates, payroll deductions, and dependent health coverage. However, this Section requires an amendment to allow the Board to provide amnesty to employees and annuitants who voluntarily terminate their ineligible dependent(s) enrollment.

The proposed Dependent Eligibility Verification Amnesty regulations would grant the Board authority to provide amnesty to employees and annuitants who voluntarily terminate their ineligible dependent(s) enrollment in a CalPERS health benefits plan prior to June 30, 2013. Amnesty is proven to encourage voluntary disenrollments because employees and annuitants could otherwise be liable for prior health claims and employer contributions for premiums during the period of ineligibility. Based on published statistics, staff estimates that there may be approximately 29,000 enrolled dependents (including dependents in association plans) that may not be eligible for CalPERS health benefits. CalPERS and CalPERS health plans will not retroactively collect claims paid, nor will CalPERS employers retroactively collect employer contributions for premiums if the employee or annuitant voluntarily terminates enrollment during the amnesty period.

The specific anticipated benefits of the proposed regulatory action include:

- Decrease in medical claims once enrollment of ineligible dependents is terminated.
- One-time cost avoidance of approximately \$40 million due to the reduction of medical claims.
- Decrease in employer contribution rates if party-change occurs from disenrollment.
- Encourages voluntary action on the part of employees and annuitants.
- Decreases the administrative burden associated with conducting eligibility verifications and forced terminations.

CalPERS has evaluated and determined that the amendment of this regulation is not inconsistent with existing State regulations. There are no other comparable existing State regulations pursuant to GC § 11346.5, subdivision (a), paragraph (3)(D).

#### PRENOTICE CONSULTATION WITH THE PUBLIC

From March through June 2011, CalPERS conducted a market scan to take a closer look at health care cost-drivers, the federal Affordable Care Act provisions, comparisons of health benefits nationwide, best practices, market trends, and legal constraints. The market scan highlights were presented to the CalPERS Board in July 2011.

From July through September 2011, CalPERS administered member and employer surveys to better understand their priorities and preferences. The surveys included questions designed to provide insight into member and employer perspectives. The greatest concern expressed was regarding the cost of their health care premiums. Survey findings were presented to the CalPERS Board in September 2011.

Between September and November, CalPERS management met with many stakeholders including labor, retiree, and employer groups, as well as the California Health Benefit Exchange. In addition, staff also met with industry experts including health plan and provider groups. In December 2011, presentations were made to the CalPERS Board.

The HBPR project resulted in the development of 21 initiatives that were presented to, and approved by, the CalPERS Board, in March 2012, including an initiative to conduct dependent eligibility verification audits. From March through June 2012, CalPERS staff presented the proposed amnesty regulations to constituent groups, which included labor, retiree, and employer groups, and at the May 2012 Board meeting, which included representatives from State government, employer groups, labor, retirees, and the public.

The existing CCR § 599.506 defines the “Termination of Enrollment” process for CalPERS members. This Section provides specific information about disenrollment dates, payroll deductions, and dependent health coverage. However, this Section requires an amendment to allow the Board to provide amnesty to employees and annuitants who voluntarily terminate their ineligible dependent(s) enrollment.

#### VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to the California Public Employees’ Retirement Law.

#### VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS: This regulation package will not impose any mandates on local agencies and school districts.
- B. COST OR SAVINGS TO ANY STATE AGENCY: The proposed regulatory action will result in a one-time cost avoidance to the State of \$24 million.
- C. COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT: The proposed regulatory

action will result in a one-time cost avoidance to CalPERS contracting agencies and school employers of \$16 million.

- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action would provide one-time cost avoidance to CalPERS contracting agencies and school employers.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** There is no impact on federal funding to the State.
- F. **ADVERSE ECONOMIC IMPACT:** The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses including the ability of business in California to compete with businesses in other states.
- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- H. **RESULTS OF THE ECONOMIC IMPACT ANALYSIS:** The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; (3) affect the expansion of businesses currently doing business within California; or (4) affect the health and welfare of California residents, worker safety, or the state's environment.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action has no effect on housing costs.
- J. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GC § 17500 THROUGH § 17630:** None.

#### IX. CONSIDERATION OF ALTERNATIVES

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

ments or arguments with respect to alternatives to the proposed regulations at the above mentioned hearing or during the written comment period.

#### X. CONTACT PERSON

Please direct inquiries concerning the substance of the proposed regulatory action to:

Pat Sherard, BPPP Legislative Coordinator  
California Public Employees' Retirement System  
P.O. Box 720724  
Sacramento, CA 94229-0724  
Telephone: (916) 795-0885  
Fax: (916) 795-4680  
E-Mail: [pat\\_sherard@calpers.ca.gov](mailto:pat_sherard@calpers.ca.gov)

Please direct requests concerning processing of this regulatory action to Ryan Digman, Regulations Coordinator, at the address shown above in Section II.

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

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above in Section II. To date, the file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons (ISOR). A copy of the proposed text and the ISOR is available at no charge upon telephone or written request to the Regulations Coordinator. The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Ryan Digman, Regulations Coordinator, at the address shown above in Section II.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' website at [www.calpers.ca.gov](http://www.calpers.ca.gov).

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed text of the regulations after the public comment period closes.

If the Board modifies its regulatory action, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends, or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed as to the outcome of this regulatory action.

**TITLE 2. STATE ALLOCATION BOARD**

**NOTICE OF PROPOSED REGULATORY ACTION**

THE STATE ALLOCATION BOARD PROPOSES TO AMEND VARIOUS REGULATION SECTIONS, ALONG WITH AN ASSOCIATED FORM, TITLE 2. CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

REGULATION SECTIONS PROPOSED FOR AMENDMENT:

1859.2, 1859.71.6, 1859.77.4, 1859.107, 1859.193, 1859.194 AND 1859.197.

FORM PROPOSED FOR AMENDMENT

*Application for Career Technical Education Facilities Funding*, Form SAB 50–10, (Revised ~~12/11~~ 04/12), referenced in Regulation Section 1859.2

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

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17070.35, 17078.72(k), and 17078.72(l) of the Education Code. The proposal interprets and makes specific reference Sections 17070.35, 17070.63, 17074.15, 17074.16, 17074.56, 17076.10, 17078.72, 17250.30, and 101012(a)(8) of the Education Code, and Section 1771.3 of the Labor Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes

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

The SAB, at its April 25, 2012 meeting, adopted amendments to the SFP Regulations to allow Career Technical Education Facilities Program (CTEFP) projects to request High Performance Incentive (HPI) Grants, in accordance with Senate Bill (SB) 128, Chapter 622, Statutes of 2011 (Lowenthal). The CTEFP allows school districts/local educational agencies to apply for 50 percent State funding for constructing new facilities, or reconfiguring existing ones, needed for high school pupils to learn the skills and knowledge for “the high-demand technical careers of today and tomorrow” [Education Code Sections 17078.72(a) and 101012(a)(4)]. CTEFP projects were authorized by Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Perata/Nunez).

HPI Grants were authorized by AB 127 [Education Code Sections 17070.96 and 101012(a)(8)] and implemented into the SFP Regulations for school districts using designs and materials in new construction and modernization projects for efficiencies in the following categories:

- Sustainable Sites
- Energy
- Water
- Materials
- Indoor Environmental Quality

The existing SFP regulations list all qualifying high performance components with assigned “points” and a threshold of total points to qualify for High Performance Base Incentive Grants (HP BIGs) in the amount of:

- \$150,000 for new construction projects on new sites, and
- \$250,000 for new construction projects on existing sites and for modernization projects.

The proposed regulations make CTEFP projects eligible for the first time for the \$150,000 or \$250,000 HP BIG if they meet the high performance qualifying criteria. As with the existing CTEFP funding process, the proposed regulations clarify that applicants receiving the HP BIG must match that sum on a dollar-for-dollar basis.

Funding Source. Proposition 1D was approved by voters in the November 2006 General Election, which included \$100 million for HPI grants. This is the only

funding source for the HPI grants, and \$57.5 million still remains in this account as of June 27, 2012.

**Economic/Fiscal Impact.** The regulatory amendments would allow CTEFP projects which have not received apportionments to re-submit their applications requesting the HP BIG additional grant. There are 73 approved CTEFP projects on the Unfunded List (Lack of AB 55 Loans) that have not received apportionments — 34 are new construction projects and 39 are modernization projects. It is not known if their high performance components are eligible to qualify for HP BIG additional grants. The maximum economic/fiscal impact would reduce the HPI school bond account by \$18,250,000 [73 projects X \$250,000 = \$18,250,000].

There are another 74 CTEFP applications that have been submitted but have not been approved by the SAB due to insufficient CTEFP bond authority. It is not known if any applications would qualify for HP BIG additional grants. Therefore, the economic/fiscal impact is unknown for these projects.

The regulatory amendments are therefore consistent and compatible with State laws and regulations.

The proposed regulatory amendments, including an associated form, are as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments change the revision date of Form SAB 50–10, *Application for Career Technical Education Facilities Funding*, to reflect a revision date of “04/12.”

Existing Regulation Section 1859.71.6 sets forth a point system based upon construction industry-recognized High Performance Rating Criteria, for school districts to qualify for a SFP additional grant, including a \$150,000 HP BIG for projects evaluated using the 2009 CA–CHPS criteria, by including “high performance” designs and materials in their new construction projects on new sites. The proposed amendments add a subsection that provides the \$150,000 HP BIG to CTEFP new construction projects on new sites with levels of high performance as verified by the Division of the State Architect (DSA) with a minimum of 27 points. Education Code Section 17078.72(l) is added to the list of Authority citations because this new section was added by statute (SB 128).

Existing Regulation Section 1859.77.4 sets forth a point system based upon construction industry-recognized High Performance Rating Criteria, for school districts to qualify for a SFP additional grant, including a \$250,000 HP BIG for projects evaluated using the 2009 CA–CHPS criteria, by including “high performance” designs and materials in their new construction projects on existing sites and in modernization projects. The proposed amendments add a subsection that provides the \$250,000 HP BIG to CTEFP new construction

projects on existing sites and to CTEFP modernization projects with levels of high performance as verified by the DSA with a minimum of 20 points. Education Code Section 17078.72(l) is added to the list of Authority citations because this new section was added by statute (SB 128).

Existing Regulation Section 1859.107 details how eligibility/funding applications will be processed based upon the date of submittal, specified funding adjustments, and criteria for the amendment, withdrawal, or resubmittal of eligibility/funding applications. The proposed amendments:

- add a new paragraph permitting approved CTEFP projects submitted prior to January 1, 2012 to be resubmitted for the purpose of requesting HP BIGs under Regulation Section 1859.71.6 or 1859.77.4;
- state that the resubmittal must be on an amended Form SAB 50–10;
- require that the amended Form SAB 50–10 be submitted at least 90 days prior to requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2 (“Priority Funding Process”) or at least 90 days prior to receiving an Apportionment pursuant to Section 1859.195 (CTEFP funding cycles);
- specify that the resubmittal will retain its original OPSC processing date; and
- add Education Code Section 17078.72(1) to the list of Authority citations because this new section was added by statute (SB 128).

Existing Regulation Section 1859.193 specifies that CTEFP projects may be allowed to construct a new facility or modernize or reconfigure an existing facility. Grant determinations shall not exceed \$3 million for new construction projects or \$1.5 million for modernization/reconfiguration projects. The proposed amendments add new subsection (e) stating that the additional grant for the HP BIG may be added to the CTEFP grant determination regardless of the \$3 million or \$1.5 million per-project maximum CTEFP amounts. Education Code Section 17078.72(l) is added to the list of Authority citations because this new section was added by statute (SB 128).

Existing Regulation Section 1859.194 specifies that CTEFP apportionments shall require an applicant matching share contribution on a dollar-for-dollar basis, and that loans may be requested by districts needing assistance to reach their matching share requirement, if specified criteria are met. The proposed amendments clarify that HP BIG additional grants are subject to the matching share requirement on a dollar-for-dollar basis for both CTEFP new construction and modernization projects. Education Code Section 17078.72(l) is

added to the list of Authority citations because this new section was added by statute (SB 128).

Existing Regulation Section 1859.197 sets forth the criteria for CTEFP fund releases. The proposed amendments:

- add new subsection (d) which requires districts/local educational agencies (LEAs) with approved CTEFP projects on the Unfunded List (Lack of AB 55 Loans) that request an Apportionment pursuant to Regulation Section 1859.90.1 or 1859.90.2 (“Priority Funding Process”) that includes a request for the HP BIG additional grant under Section 1859.71.6 or 1859.77.4, then the district must submit the necessary approvals from the DSA and/or the California Department of Education (CDE) at least 90 days prior to requesting an Apportionment;
- add new subsection (e) which requires districts/LEAs with approved CTEFP projects under Section 1859.197(a) and with approved reservations of funds pursuant to Section 1859.193(d) that request the HP BIG additional grant under Section 1859.71.6 or 1859.77.4, then the district must submit the necessary approvals from the DSA and/or the CDE at least 90 days prior to requesting an Apportionment;
- correct the existing subsections (d) and (e) as “(f)” and “(g)” respectively, due to the two new subsections (d) and (e) above being added,
- correct “1859.197(e)” to “1859.197(g)” in the text of the last sentence of this Section in order to reflect the proper subsection; and
- add Education Code Section 17078.72(1) to the list of Authority citations because this new section was added by statute (SB 128).

Existing Form SAB 50–10 is submitted by school districts/LEAs to apply for funding under the CTEFP. The proposed amendments add Specific Instructions, data fields and certifications to allow school districts and LEAs with CTEFP projects to request the HP BIG, or remove the HP BIG request, and to state the number of DSA–approved high performance points. The proposed amendments add new Specific Instruction #14 and new data field #14 for HPI Grant requesters to enter the number of DSA–approved HPI points. Specific Instruction #15 “Certification” is added to advise that the submitter’s representative must complete this section of the Form. Three new certifications are added which must be acknowledged and signed by the district or LEA representative:

- that HP BIG additional grants shall be rescinded if the DSA review of plans and specifications does not confirm the necessary points to qualify under Section 1859.71.6 or 1859.77.4;
- that the district/LEA has considered the feasibility of using designs and materials for its projects that promote the efficient use of high performance, recycled, low toxin, and acoustics conducive components; and
- that if the district/LEA is requesting the HP BIG, the school governing board must have a resolution on file that demonstrates support for the HP BIG and the intent to incorporate high performance components in future projects.

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

#### DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

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

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The proposed regulatory amendments will have a minimal impact in 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. Specifically, the proposed amendments would incentivize more school construction projects to add “high performance” components, thereby creating or maintaining “green technology” jobs in the State economy, relating to saving energy, water, materials, and sustainable sites.
- The SAB is not aware of any cost impacts that a representative private person or business would

necessarily incur in reasonable compliance with the proposed action.

- The proposed regulations do not require a report to be submitted other than as required by law. However, CTEFP projects applying for the HP BIG must comply with the existing SFP Regulation requirements for document reviews by the DSA and CDE.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulations create no costs to school districts and LEAs beyond those required by law, except for the required district/LEA contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulations create no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.
- The proposed regulatory action promotes fairness and social equity by carrying out the intent of SB 128 that CTEFP projects be eligible for HP BIGs so that school districts/LEAs can apply for 50 percent State funding for constructing new facilities, or reconfiguring existing facilities needed for high school pupils to learn the skills and knowledge for technical careers.
- There are benefits to the health and welfare of California residents, and to the State's environment. Implementing these amendments will enhance public health and safety by incentivizing CTEFP projects to add "high performance" designs and materials to school construction projects, thereby improving energy and water efficiency, indoor environmental quality, natural lighting, low toxin materials, and improved acoustics for pupils, staff and others at participating school sites. There are no benefits to worker safety based on the proposed regulatory amendments.

The SAB finds that the proposed amendments are reasonably necessary to implement SB 128 to allow school districts/LEAs with eligible CTEFP projects to apply for 50 percent State funding for constructing new facilities, or reconfiguring existing facilities needed for high school pupils to learn the skills and knowledge for "the high-demand technical careers of today and tomorrow" [Education Code Sections 17078.72(a) and 101012(a)(4)].

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits of SB 128 as set forth in the Bill's Legislative Declaration. The SB 128 Legislative Declaration states its intent to help apply the \$100 million set aside in the Kindergarten–University Public Education Facilities Bond Act of 2006 (Proposition 1D) "to promote the use of designs and materials in new construction and modernization projects that include the attributes of high-performance schools."

SB 128 expands the allowable purposes for expenditure of modernization apportionments by adding Education Code Section 17074.25(b) that "A modernization apportionment may also be used for the cost of designs and materials that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high-performance schools."

Further, SB 128 amends Education Code Section 17078.72, which establishes the Career Technical Education Facilities Program (CTEFP), by adding new subsection (j) that permits CTEFP projects to apply for and receive high performance additional grant amounts regardless of exceeding the existing CTEFP maximum grant amounts per project per schoolsite, as set forth in Section 17078.72(e) and (f).

#### EFFECT ON SMALL BUSINESSES

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

#### SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than September 17, 2012, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

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

Robert Young, Regulations  
Coordinator

Mailing Address: Office of Public School  
Construction  
707 Third Street, Room 1-430  
West Sacramento, CA 95605

E-mail Address: [robert.young@dgs.ca.gov](mailto:robert.young@dgs.ca.gov)

Fax No.: (916) 376-5332

## RULEMAKING FILE

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

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

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

## AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 375-5939. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 376-1753.

## ADOPTION OF REGULATIONS

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

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

## SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

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

## ALTERNATIVES

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

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

## TITLE 4. CALIFORNIA HORSE RACING BOARD

### NOTICE OF PROPOSAL TO ADD RULE 1927.1. TAMPERING WITH SMOKE DETECTORS PROHIBITED

The California Horse Racing Board (Board/CHRB) proposes to add the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to add Rule 1927.1, Tampering With Smoke Detectors Prohibited, to provide that no licensee shall tamper with, dismantle, or disable any automatic fire alarm system or smoke detector that is located on the grounds of a facility under the jurisdiction of the Board. A licensee who violates the proposed regulation shall be subject to a hearing before the stewards, and a fine of no less than \$25. In addition, the proposed regulation states that a trainer may be found culpable and fined \$100 if a fire alarm is disabled in an area assigned to the trainer, such as stalls and tack rooms.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, September 20, 2012**, or as soon after that as business before the Board will permit, at the **Sheraton Fairplex Suites, 601 W. McKinley Avenue, Pomona, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on September 17, 2012**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Erica Ward, Regulation Analyst  
 California Horse Racing Board  
 1010 Hurley Way, Suite 300  
 Sacramento, CA 95825  
 Telephone (916) 263-6025  
 Fax: (916) 263-6022  
 E-Mail: esward@chr.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440 and 19460, Business and Professions Code. Reference: Sections 19440 and 19481, Business and Professions Code.

Business and Professions Code sections 19420, 19440 and 19460 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19440 and 19481, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides that jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19440 states that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering, and administration and enforcement of all laws, rules and regulations affecting horse racing and pari-mutuel wagering. Business and Professions Code section 19460 provides that all licenses granted under this chapter are subject to all rules, regulations and conditions from time to time prescribed by the Board. Business and Professions Code section 19481 states that in performing its duties the Board shall establish safety standards governing track facilities in order to improve the safety of horses, riders and workers at the racetrack. Board Rule 1927, Fire Prevention, states association shall make adequate provision for fire prevention, protection against fire, and fire suppression within the inclosure. A reasonable standard of fire safety shall require that each building, barn or structure which is used by an association for the stabling of horses or human habitation, be equipped with an automatic sprinkler system and an automatic fire alarm system.

The Board proposes to add Rule 1927.1, Tampering With Smoke Detectors Prohibited. Subsection 1927.1(a) provides that no licensee shall willfully tamper with, dismantle, or disable any automatic fire alarm system or smoke detector that is located on the grounds of a facility under the jurisdiction of the Board. This subsection is necessary because fire safety is a continuing issue within the inclosure. The Board requires that racing associations install and maintain sprinkler systems and fire alarms. Racing associations are also required to undergo annual fire inspections, and periodic safety inspections. The disabling of smoke detectors is a problem that occurs especially in habitable rooms used for sleeping. Under Rule 2103, Habitable Rooms, such rooms are required to be provided with battery operated smoke detectors that are maintained in working order, or any other approved fire alarm system. Occupants may wish to smoke where it is otherwise prohibited, or to cook on portable hot plates. To enable such activities, the smoke detectors may be disabled. Subsection 1927.1(b) states that a licensed trainer who is assigned

stalls, tack rooms or other areas within the inclosure may be held culpable if an employee of that trainer is found to have violated this regulation within such assigned areas. The Board has determined subsection 1927.1(b) is necessary in order to encourage trainers to pay attention to what their employees may be doing with fire safety equipment, as there are currently no repercussions for trainers whose employees routinely disable fire alarms. Subsection 1927.1(c) provides that a violation of this regulation shall result in a hearing before the stewards who may impose a fine of not less than \$25 and subsection 1927.1(c)(1) states that the stewards may impose a fine of not less than \$100 on the trainer whose employee is found to have violated this regulation. The Board believes that these fines, while not excessive, are enough to help deter and prevent future incidents.

**POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL**

The proposed addition of Rule 1927.1 promotes the protection of worker, public, and equine safety. The regulation prohibits individuals from tampering with, dismantling, or disabling any automatic fire alarm system or smoke detector at facilities under the Board’s jurisdiction or a fine will be imposed. Prohibiting such actions will aid in fire safety for workers and any horses located on the grounds of a California horse racing facility. Race horses are very valuable and their health and safety is of great importance to the industry. Also, if there is a race meeting or other event occurring at a facility, the rule protects the public attending by decreasing the chances of them being exposed to a fire. If individuals are following good fire safety practices on the grounds of the facilities, the chances of a fire is reduced, which in turn provides a feeling of safety in workers and the public. If individuals believe the horse racing facilities to be a safe environment, there could be an increase in attendance at the horse racing events. An increase in attendance may result in increased wagering, which in turn has a positive economic impact on the industry.

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

**DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS**

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

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

The Board has made an initial determination that the proposed addition of Rule 1927.1 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 following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative 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.

Significant effect on housing costs: none.

The adoption of the proposed addition of Rule 1927.1 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 proposed addition of Rule 1927.1 will benefit California by promoting the protection of worker, public, and equine safety. The regulation prohibits individuals from tampering with, dismantling, or disabling any automatic fire alarm system or smoke detector at facilities under the Board’s jurisdiction or a fine will be imposed. Prohibiting such actions will aid in fire safety for workers and any horses located on the grounds of a California horse racing facility. Race horses are very valuable and their health and safety is of great importance to the industry. Also, if there is a race meeting or other event occurring at a facility, the rule protects the public attending by decreasing the chances of them being exposed to a fire. If individuals are following good fire safety practices on the grounds of the facilities, the chances of a fire is reduced, which in turn provides a feeling of safety in workers and the public. If individuals believe the horse racing facilities to be a safe environment, there could be an increase in attendance at the horse racing events. An increase in attendance may result in increased wagering, which in turn has a positive economic impact on the industry.

Effect on small businesses: none. The proposal to add Rule 1927.1 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

**CONSIDERATION OF ALTERNATIVES**

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

rying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Erica Ward, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6025  
E-mail: [esward@chrb.ca.gov](mailto:esward@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Harold Coburn,  
Regulation Analyst  
Telephone: (916) 263-6397

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Erica Ward, or the alternative contact person at the address, phone number or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Re-

quests for copies of any modified regulation should be sent to the attention of Erica Ward at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Erica Ward at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

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

#### NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **September 20, 2012**,  
at 10:00 a.m.  
in the Auditorium of the  
State Resources Building,  
1416 9th Street,  
Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **September 20, 2012**,  
following the  
Public Meeting,  
in the Auditorium of the  
State Resources Building,  
1416 9th Street,  
Sacramento, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **September 20, 2012**,

following the  
Public Hearing,  
in the Auditorium of the  
State Resources Building,  
1416 9th Street,  
Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE:**

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS  
BY THE OCCUPATIONAL SAFETY AND  
HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders and General Industry Safety Orders as indicated below, at its Public Hearing on **September 20, 2012**.

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 4  
Article 15, Sections 1610.3 and  
1616.3  
**GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7  
Article 91, Section 4885 and  
Article 98  
New Section 4993.1 and Sections  
4999 and 5001  
**Work Area Control (Crane Swing  
Radius Hazards)**

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 4  
Article 15, Sections 1610.3 and  
1616.3  
**GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7  
Article 91, Section 4885 and  
Article 98  
New Section 4993.1 and  
Sections 4999 and 5001  
**Work Area Control (Crane  
Swing Radius Hazards)**

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

This proposal is the result of a Division of Occupational Safety and Health (Division) generated request to amend General Industry Safety Orders (GISO), Section 4999(j) to add protection for oilers and other employees who must work within the swing radius of a crane.

Some employees, such as oilers, have duties that require them to work immediately around the crane (oilers assist the crane operator and maintain the crane and the barricades around it). Often oilers must work in areas out of the operator's sight where the oiler can be struck by the rotating crane's counterweight and/or be pinched or crushed between the rotating parts and fixed objects or the crane's non-rotating carrier.

Section 4999(j) currently contains provisions for cranes that rotate in such a way that persons may be caught between rotating parts of the crane and outside obstructions or between parts of the crane's rotating machine deck (superstructure) and non-rotating parts (carrier). The Occupational Safety and Health Appeals Board (OSHAB) issued a Decision After Reconsideration (DAR) in 1987 that held that the provisions cur-

rently found in Section 4999(j)<sup>1</sup> do not apply to oilers and other essential members of the crane crew who must work immediately around the crane.

This rulemaking is proposed to protect oilers and other employees who must work within the swing radius of a crane. The Board recently adopted into the Construction Safety Orders (CSO) federal standards for cranes and derricks in construction which included 29 CFR 1926.1424, Work Area Control. The Board believes that the federal standards contain verbiage that, with minor revisions, should clarify regulatory intent to protect oilers and others who must work in the crane swing radius. In order to add further clarity to the intent to protect oilers and other essential members of the crane crew, this proposal creates a new Section 4993.1 of the GISO to address work area control (crane swing radius hazards). This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal standards only to the extent necessary to clarify protections for all employees (including oilers) whose duties require them to work out of view of the operator inside the crane swing radius hazard area. The proposed standards will also harmonize existing state standards for mobile cranes in the GISO with the CSO and with federal standards for cranes and derricks in construction. Since the same cranes can and often are used in both general industry and in construction, sometimes in the same day, it is important that construction and general industry standards for cranes and derricks be harmonized.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as 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.

- Is the least burdensome effective alternative because proposed amendments are consistent with federal standards. In lieu of a formal advisory committee, and due to the limited scope of this proposal, it has been vetted via e-mail with selected representatives of labor, management, subject matter experts and the Division of Occupational Safety and Health.

**Section 1610.3. Definitions.**

A new definition, “Radius (Load)” is added. This definition is based on the definition in GISO, Section 4885 with clarifying text based on a counterpart definition in ASME B30.3<sup>2</sup>. The effect of this proposal is to clarify proposed revisions to Section 1616.3(b) where this term is used.

**Section 1616.3. Work Area Control.**

This existing section prescribes requirements for protecting employees where there are accessible areas in which the equipment’s rotating superstructure poses a reasonably foreseeable risk of striking and injuring an employee or pinching/crushing an employee against another part of the equipment or another object. It also contains provisions for preventing accidental contact between two or more cranes operating within the boom swing radii of one another. Revisions proposed include the following:

- (a)(1) Strikes the phrase “in subsection (a)(2)” in order to clarify that all parts of Section 1616.3 apply where employees are exposed to crane swing radius hazards.
- (a)(1) Strikes the parenthetical “whether permanently or temporarily mounted.” These terms are superfluous, and their inclusion may cloud the issue of what is/is not to be included as part of the superstructure.
- (a)(2) EXCEPTION. A requirement is added for certain markings to be visible to employees from outside the hazard area to ensure that employees do not accidentally enter the area.
- (a)(3) Requires direct employee-at-risk communication with the operator similar to lockout-tagout provisions to minimize the chances for miscommunication.
- (b) Adopts federal text with revisions for California definitions and multi-employer worksite standards.

The effect of these revisions and amendments is to clarify the intent to protect all employees (including oilers) whose duties require them to work inside the crane

<sup>1</sup> The text of GISO, Section 4999(j) was formerly contained in Sections 1587.10(m) and 4999(i).

<sup>2</sup> For example, see ASME B30.3-1996, Section 3-0.2.2, definition of “radius (load)”.

swing radius hazard area out of view of the operator and to require coordination of operations to prevent accidental contact between the cranes when operating in proximity to one another.

**Section 4885. Definitions.**

The existing definition for “Radius (Load)” is proposed to be revised with clarifying text from a counterpart definition in ASME B30.3<sup>3</sup>. The effect of this proposal is to harmonize the GISO and CSO definitions for “radius (load)” and to clarify new Section 4993.1(b) as to when precautions must be taken where cranes are operating within proximity of each other.

**New Section 4993.1. Work Area Control.**

A new section is proposed to protect employees, including oilers, whose duties require them to work in areas where the equipment’s rotating superstructure poses a risk of striking, pinching or crushing them. This new section will also require precautions to be taken to prevent inadvertent contact when two or more cranes are operating within the load radii of one another. These provisions are based on recently adopted federal standards for crane work area control and swing radius hazards (29 CFR 1926.1424), and they mirror proposed changes to Section 1616.3. These standards will replace Sections 4999(j) and 5001(f) which are being placed here in order to be in a more logical location (work area control); thus, those provisions will not just be limited to when the crane is handling loads. The effect of these amendments is to harmonize the GISO with the CSO and to clarify the regulatory intent to protect all employees (including oilers) whose duties require them to work in the crane’s crane swing radius hazard area. The effect of this proposal will also be to prevent accidental contact between one or more cranes operating within the load radii of one another.

**Section 4999. Handling Loads, Subsection (j).**

Subsection (j) currently provides that, where a rotating crane is positioned to operate such that persons may be caught between rotating parts of the crane and outside obstructions or between parts of rotating machine deck and non-rotating parts of crane, measures shall be taken to prevent workers from entering such areas while the crane is operating. The OSHAB DAR established that these protective measures do not apply to oilers and other essential members of the crane crew whose duties require them to work in the crane swing radius hazard area, and the Division states that fatalities and serious injuries to oilers continue to occur due to this interpretation. It is proposed to relocate these requirements to GISO, new Section 4993.1, which will address work area control/swing radius hazards. The effect of this relocation is to protect all employees (including oilers) whose duties require them to work in the crane swing

radius hazard area. This action will also harmonize the GISO with the CSO, thus simplifying compliance.

**Section 5001. Signals, Subsection (f).**

Subsection (f) currently provides that, when there is a potential for accidental contact by cranes operating within the boom swing radii of one another, the employer shall ensure effective communication to coordinate operations. It is proposed to relocate the substance of this subsection to GISO, new Section 4993.1(b). The relocated verbiage will be based on recently adopted CSO, Section 1616.3(b), which is the state counterpart of 29 CFR 1926.1424(b). The effect of this relocation is to harmonize the GISO with the CSO and to place requirements related to work area control and swing radius hazards in a single location, thus simplifying compliance.

COST ESTIMATES OF PROPOSED ACTION

**Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action.

**Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

**Impact on Businesses/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete**

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

No significant adverse economic impacts are anticipated because changes are principally clarification of work area control provisions in recently adopted CSO crane standards, which are based on federal standards applicable in all states. In addition, the GISO standards are proposed to be revised to be consistent with the CSO regarding work area control. Since mobile cranes can and do work in both construction and general industry, this harmonization should not result in any significant additional cost to crane lessors, operators and/or owners. These proposals were vetted via an electronic advisory committee; i.e. selected members of labor, management, subject matter experts and interested government have previewed the proposal and no significant cost impact was identified.

**Cost Impact on 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.

<sup>3</sup> Ibid.

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

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES  
AND RESULTS OF THE ECONOMIC  
IMPACT ASSESSMENT

The Board has determined that the proposed amendments may affect small businesses. However, no eco-

nomonic impact is anticipated because the proposed modifications and clarifications will conform general industry standards with construction standards and with federal standards, thus eliminating regulatory inconsistencies and simplifying compliance.

Therefore, the proposed regulations will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

ALTERNATIVES STATEMENT

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 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.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board’s Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than September 14, 2012. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on September 20, 2012, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board’s rulemaking file on the proposed actions including all the information upon which the proposals are

based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

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

NOTICE OF PUBLIC HEARING OF THE OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and Labor Code Sections 148.7, the Occupational Safety and Health Appeals Board of the State of California has set the time and place for Public Hearings on proposed changes to its rules of practice and procedure found in Title 8, California Code of Regulations, Division 1, Chapter 3.3, Articles 1, 3 and 4, Sections 354, 371.2, 373, 376.1, and 386:

**PUBLIC HEARINGS:** On September 17, 2012 at 10:00 a.m.  
Occupational Safety and Health Appeals Board  
2520 Venture Oaks Way,  
Suite 300  
Sacramento, California  
95833

**DISABILITY ACCOMMODATION NOTICE:** Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings of the Occupational Safety and Health Appeals Board should contact the Disability

Accommodation Coordinator at (916) 274-5751 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

Notice is hereby given, pursuant to Government Code Section 11346.4, that the Occupational Safety and Health Appeals Board, pursuant to the authority granted by Labor Code Section 148.7, and in order to implement Labor Code Sections 148.7, 148.8 and 6603, will consider the following proposed revisions to Title 8, Rules of Practice and Procedure, of the California Code of Regulations, as indicated below, at its Public Hearing on September 17, 2012.

**TITLE 8: RULES OF PRACTICE AND PROCEDURE**

Chapter 3.3, Subchapter 4,  
Articles 1, 3 and 4  
Sections 354, 371.2, 373, 376.1, and 386.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Appeals Board (Board) is charged with hearing and resolving appeals filed by employers for occupational safety and health citations issued by the Division of Occupational Safety and Health. California Labor Code Section 148.7 authorizes the Board to adopt rules of practice and procedure for the matters that fall within its jurisdiction. The Board has adopted regulations to govern the appeals process and the procedure for reconsidering decisions made on such appeals (Title 8, California Code of Regulations, Sections 345-397).

354: Party Status

Existing law allows either an affected employee or an authorized employee representative to participate as a party in an appeal. An “authorized employee representative” is defined in section 347 as a labor organization which represents the affected employee and has an existing relationship with the employer. Currently, two impediments can prevent an affected employee from obtaining party status. If either the affected employee dies during the pendency of the appeal, or his or her labor organization requests party status first, the affected employee is barred from participating in the appeal as a party. However, the Labor Code requires an affected employee be afforded the opportunity to participate as a party in Appeals Board proceedings.

The proposed changes will remove both of these obstacles. First, it will allow one of a short list of surviving family members to take up the deceased affected employee’s party participation in the Appeals Board proceeding. The proposed changes also allow the affected employee (or if deceased, a listed relative) and the labor representative to participate as parties in the same proceeding. The changes do not alter the existing rights of affected employees and add no substantive rights beyond those already contained in the Labor Code. The change strives to further protect the health and safety of California workers by broadening their ability to participate in proceedings wherein such health and safety has been deemed lacking or insufficient by the Division of Occupational Safety and Health (Division) and the employer has appealed the health and safety violation citations issued by the Division.

371.2: Amendments

Existing regulations allow for the amendment of citations and appeals only by proper written motion. The rules require all motions to be in writing and to be filed at least 20 days prior to the hearing date. Motions filed closer to the hearing date may only be considered if good cause for the late filing is also established, unless timeframes or other particulars for such motion are otherwise ordered by the Administrative Law Judge. Labor Code section 6603 requires Board rules to be consistent with Government Code section 11507. Denying a motion to amend a citation made within the 20 days preceding the date of the hearing disregards this requirement and results in meritorious amendment requests being denied for lack of timeliness rather than on the merits.

The proposed change requires an ALJ to decide a request to amend a citation or appeal based on the merits of the request, rather than only on its timing. The rule requires the ALJ to first determine if the requested amendment falls within the general set of facts as the original citation or appeal, such that the amendment

would relate back to the original document. If so, the ALJ then determines whether the request causes prejudice to the party opposing it and is directed to evaluate the evidence that the opponent would be unable to present as a result of the timing of the request. If there is no prejudice, the amendment request may be granted. This proposed change prevents technical, non-substantive and non-misleading errors in the citation or appeal from defeating a citation or appeal. If there is prejudice but the proponent of the amendment demonstrates good cause for failing to bring the request prior to 20 days before the hearing, the amendment may be granted. This rule balances the need to avoid frequent continuances caused by unlimited amendment requests made at the hearing with the need to resolve all appeals on the merits.

373: Expedited Proceeding

Existing law allows the Appeals Board to expedite any appeal on motion of a party or on its own motion. Currently, no rules determine when an appeal should be or will be expedited, thus the Appeals Board is only allowed to expedite appeals on a case-by-case basis.

The proposed amendment defines the types of appeals that will automatically be expedited and the timeframes that apply for those cases. Appeals of citations classified as Serious, Willful, Repeat, or any combination thereof will be set for hearing within 120 days of docketing of the appeal. A status conference and a pre-hearing conference will also be held within that time. If an employer shows proof of abatement or does not appeal the abatement ordered by the Division, the appeal will not be automatically expedited. The amendment preserves the ability of the Appeals Board to expedite a case more quickly if circumstances warrant.

376.1: Conduct of Hearing

According to existing regulation, the authority of an ALJ to consider a continuance at the time of the hearing is limited to occasions when unforeseen circumstances, including but not limited to death of a necessary participant, occur or when a subpoenaed witness fails to appear. However, existing law also grants the Administrative Law Judge the authority to issue any “orders” necessary to a “full adjudication” of the merits of the appeal. The proposed amendment would reconcile these two portions of the rules and allow the ALJ to consider a continuance of a matter at the hearing for “good cause”, as well as for the two circumstances currently listed.

386: Post-Submission Amendments

The existing regulation limits the circumstances when an Administrative Law Judge may amend a citation or appeal after the matter has been submitted. It further prohibits an Administrative Law Judge from granting a continuance of any matter to cure any prejudice demonstrated by a party opposing any post-submission

amendment. Thus, all post-submission amendments are prohibited if any prejudice may be shown to result from the amendments. However, the enabling legislation directs that if such a proposed post-submission amendment results in prejudice to an employer, a continuance to cure such prejudice shall be held.

The proposed change would remove the restriction in the Board's procedural rules so that the rules are consistent with the enabling legislation, specifically Government Code section 11516. If an ALJ proposes a post-submission amendment which is shown to cause prejudice to the opponent and the prejudice can be cured by granting a continuance, the holding of further hearings to cure the prejudice will be justified. The rule remains that no post-submission amendment is required in any case but rather remains within the discretion of the Administrative Law Judge.

Policy Statement Overview

The objective of the proposed changes is to increase workplace health and safety by removing some existing impediments to full, timely adjudication of cases on the merits. Changes to sections 371.2, 376.1 and 386 have as their objective the reduction or elimination of gamesmanship that occurs in the appeal process as a result of the existing Rules of Practice and Procedure concerning amendment of a citation or appeal.

Changes to section 373 have the policy objective of improving workplace safety and health by expediting appeals in which the alleged violation has been classified as Serious, Willful, Repeat, or any combination thereof and where the employer fails to voluntarily abate the condition as ordered by the Division.

The policy objective of the proposed changes to section 354 (regarding party status) is to increase workplace health and safety by strengthening the procedural participation rights of affected employees and their authorized union representatives to the full extent authorized by statute.

In addition to improving workplace health and safety, all of these proposed changes have the specific benefit of promoting fairness and social equity by allowing full participation of those granted the right to be a party as stated in the Labor Code, as well as by inhibiting the availability of a complete defense based on inarticulate or incorrect pleading by Division personnel or unrepresented employers who are not lawyers. Removing the ability to take advantage of mere pleading defects encourages the parties to focus on the merits of every case, which promotes early settlement and greater efficiency.

Compatibility with Other Laws

None of these proposals are substantially different from existing, comparable federal statutes or regulations. The proposed regulatory changes bring the Rules of Practice and Procedure in conformity with other state

laws, in particular, Government Code sections 11507 and 11516. No proposed changes are inconsistent or incompatible with existing state regulations.

DOCUMENTS INCORPORATED  
BY REFERENCE

None.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Results of the Economic Impact Analysis

The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

This regulatory proposal is intended to support the Occupational Safety and Health program which promotes worker safety at places of employment in California. The anticipated benefits are to workplace safety and health.

Cost Impact on 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.

Business Impact

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies of School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Non-discretionary Cost or Savings Imposed upon Local Agencies

No other non-discretionary cost or savings are imposed on local agencies as a result of these proposed changes.

DETERMINATION OF MANDATE

The Occupational Safety and Health Appeals Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code, because these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulations do not impose unique requirements on local governments. All employers — state, local and private — will be required to comply with the proposed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no adverse economic impact is anticipated. The proposal allows for more citations and appeals to be heard on the merits by allowing the correction of technical or pleading errors. Fewer decisions will be reached based on factors other than the merits. This improves settlement rates. This regulatory proposal will promote worker safety by improving the appeals process. Therefore, the Board believes the proposal will have insignificant, if any, adverse cost impact upon employers’ operations.

BUSINESS REPORTING REQUIREMENT

The Board has determined that these changes do not require a report (Government Code 11346.5(a)(11); 11346.3(d))

ALTERNATIVES STATEMENT —  
GOVERNMENT CODE 11346.5(a)(13)

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

DOCUMENT AVAILABILITY

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Appeals Board’s Sacramento office at 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833, (916) 274-5751. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, as well as a description of any identified alternatives considered, has been prepared and is available upon request from the Appeals Board’s Sacramento office.

The Occupational Safety and Health Appeals Board’s rulemaking file on the proposed actions, including all the information upon which the proposals are based, are open to public inspection Monday through Friday from 8:30 a.m. to 4:30 p.m. at the Appeals Board’s Sacramento Office.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Chief Counsel 15 days prior to the date on which the Appeals Board adopts the proposed changes.

Once the Final Statement of Reasons is prepared, it may be obtained by calling the telephone number listed above.

The Board’s notice and the other materials associated with this proposal may be accessed via the Appeals Board’s website, the address for which is <http://www.dir.ca.gov/oshab>.

PUBLIC COMMENT

Notice is also given that any interested person may comment on this proposal in writing or orally at the public hearing. It is required that written comments be submitted so that they are received no later than September 17, 2012 at 5:00 p.m. PST.

The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing

and written comments received after 5:00 p.m. PST on September 17, 2012 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided above, submitted by fax to (916) 274-5785 or e-mailed to [oshab@dir.ca.gov](mailto:oshab@dir.ca.gov). The Occupational Safety and Health Appeals Board may thereafter adopt the above proposal substantially as set forth without further notice.

CONTACT PERSONS

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Jeff Mojcher, Chief Counsel or Michael Wimberly, Executive Officer, at (916) 274-5751.

**TITLE 13. DEPARTMENT OF MOTOR VEHICLES**

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to adopt Section 145.00 in Chapter 1, Division 1, Article 2.6 of Title 13, California Code of Regulations, relating to Reinstatement Fees.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., **SEPTEMBER 17, 2012**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Vehicle Code section 1651,

in order to implement, interpret, or make specific Vehicle Code sections 13106, 14904, and 14906, and Business and Professions Code section 494.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Motor Vehicles (department) proposes to adopt Section 145.00 in Article 2.6 of Title 13, California Code of Regulations (CCR), relating to tax delinquency suspensions.

Assembly Bill (AB) 1424 (Chapter 455; Statutes of 2011) added Business and Professions Code section 494.5, requiring the department to suspend any motor carrier permit, driver license, or occupational license held by a business or individual whose name has appeared on a certified list of the top 500 largest tax delinquencies pursuant to Revenue and Taxation Code section 7063 or 19195. The certified lists will be sent to the department quarterly by the state Board of Equalization (BOE) and biannually by the Franchise Tax Board (FTB). After receiving one of these lists, the department must send a notice of intent to suspend to each business or individual on the list who holds a motor carrier permit, driver license, or occupational license. A notice of intent to suspend will indicate the date the suspension action will be taken and provide the business or individual with the necessary contact information for the applicable tax agency from which the action was initiated. The department will suspend the motor carrier permit, driver license, or occupational license no more than 120 days after sending the initial intent to suspend notice.

This section grants the department authority to charge an administrative fee sufficient to cover the cost of administering a suspension pursuant to the provisions outlined in the section. The anticipated benefits of AB 1424 will impact the State of California as well as its residents, however, the department will benefit by being provided the authority to promulgate a regulation that will allow it to recoup costs expended in reissuing impacted licenses.

This proposed regulatory action is neither inconsistent nor incompatible with existing state or federal regulations.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

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

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.

- Cost Impact on Representative Private Persons or Businesses: A person whose driver license or occupational license is suspended because his or her name appears on a FTB or BOE certified list of tax debtor, will be required to pay the fee(s) specified in this proposed action prior to having his or her license reinstated.
  - Effects on Housing Costs: None.
  - Local Agency/School District Mandates: The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
  - Small Business Impact: This regulation may impact a small business if the occupational license or motor carrier permit is suspended because of a specified tax delinquency, however, any impact to a business will be attributed to the statute and not the reinstatement fees being adopted by this action.
- 3) The expansion of businesses currently doing business within the State of California.
    - This regulation will neither expand nor contract businesses currently doing business within the State of California.
  - 4) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.
    - This regulation has no benefits to the Health and Welfare of California residents, worker safety, or the State's environment.
  - 5) Potential significant statewide adverse economic impact:
    - The department does not anticipate that this proposed regulatory action will have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department states the following results of its Economic Impact Assessment per Gov. Code sec. 11346.3(b):

- 1) The creation or elimination of jobs within the State of California.
  - This regulation will neither create nor eliminate jobs in the state of California. Employees of an occupational licensee or motor carrier business may be terminated if the employing license holder appears on the certified list provided by the Franchise Tax Board or Board of Equalization. Also, if an employee whose employment is based on him or her having a valid California driver license, that employment may be compromised if the driver's license is suspended pursuant to the provisions of AB 1424, however, these occurrences would be a result of the statute and not the regulation.
- 2) The creation of new businesses or the elimination of existing businesses within the State of California.
  - This regulation will not impact existing businesses within the state of California. The action implements reinstatement fees for license holders. As stated above, any impact to business will be attributed to the statute and not the reinstatement fees being adopted by this action.

#### PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

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

#### ALTERNATIVES CONSIDERED

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

#### CONTACT PERSON

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

Jennifer Udah, Regulations Analyst  
Department of Motor Vehicles  
Legal Affairs Division  
P.O. Box 932382, MS C-244  
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657-6469  
 Facsimile: (916) 657-1204  
 E-Mail: LRegulations@dmv.ca.gov

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

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

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

The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikethrough to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, the revised handbook and Express Terms) may be accessed at [www.dmv.ca.gov/about/lad/regactions.htm](http://www.dmv.ca.gov/about/lad/regactions.htm).

**AVAILABILITY OF MODIFIED TEXT**

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

**TITLE 16. BOARD OF ACCOUNTANCY**

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

to be held at The Wyndham Irvine Orange County Airport, 17941 Von Karman, Irvine, CA 92614, at 9:00 a.m., on September 21, 2012. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on September 17, 2012, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 462, 5010, 5018, 5027, 5092, 5093, and 5095 of the Business and Professions Code, and to implement, interpret or make specific Sections 462, 5023, 5026, 5027, 5028, 5051, 5070.7, 5092, 5093, and 5095 of said Code, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Existing law, Business and Professions Code (B&P) Section 5027, requires the Board to prescribe, amend and repeal regulations regarding continuing education (CE) including the following:

- A definition of basic requirements for CE;
- At least 24 hours of qualifying CE in the area of governmental accounting and auditing for a licensee who plans, directs, or approves any financial or compliance audit report on any governmental agency during the two-year license renewal period;
- At least 24 hours of qualifying CE in the area of accounting and auditing related to reporting on financial statements for a licensee who provides audit, review or other attestation services or issues compiled financial statement reports during the two-year license renewal period;
- Completion of a CE course on the provisions of the Accountancy Act and the rules of professional conduct within a six-year period;
- CE course requirements for a licensee on inactive status to complete prior to reentering public practice;

- A delineation of qualifying programs for maintaining competency; and,
- A system of control and compliance reporting.

Existing law requires that these regulations assure reasonable currency of knowledge and provide for a variety of alternatives for compliance. The Board has existing regulations regarding license status and CE requirements in Articles 2, 5 and 12 of Division 1 of Title 16 of the California Code of Regulations,

The American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASBA) have issued a joint *Statement on Standards for Continuing Professional Education (CPE) Programs (Standards)* revised January 2012, which sets forth recommended national standards for CE. This proposal would conform the Board's CE regulations, in large part, to those national standards.

In addition, it will change the CE required for applicants whose experience was obtained five or more years prior to application for licensure and for reissuance of a cancelled license to be equivalent to the higher standard of CE required for conversion from inactive status to active status (increase from 48 to 80 hours). Finally, to eliminate duplication and overlap in educational course content, the proposal would reduce the number of CE hours for the fraud course from eight hours to four hours as fraud has become a regular part of the accounting education required for licensure over the past decade.

The regulatory proposal is as follows:

**1. Amend Sections 12 and 12.5 in Title 16 of the California Code of Regulations.**

This proposal clarifies that experience for licensure must be supervised by an individual with an active license. In addition, the proposal increases the number of CE hours, from 48 to 80, if an applicant's experience was obtained five or more years prior to application for licensure. Further, it specifies that the 80 hours must be obtained in the two years prior to application, including 20 hours in the year prior to application that meet specified requirements; and, would require that the 80 hours meet the requirements of Section 87. This proposal would also require that certificates of completion be submitted to the Board, contain a verification certified by the program provider representative, such as a signature or seal, and, delineate the subject areas for which the applicant may claim credit.

**2. Amend Section 37 in Title 16 of the California Code of Regulations.**

This proposal increases the number of CE hours, from 48 to 80, an applicant for reissuance of a cancelled license must complete.

For the board to reissue a license without the authority to sign reports on attest engagements, it specifies

that the applicant must obtain 80 hours in the two years prior to application, including 20 hours in the year prior to application, with at least 12 hours in subjects specified in Section 87(a)(2); and that the 80 hours meet the requirements of Section 87.

For the board to reissue a license with the authority to sign reports on attest engagements, it specifies that the applicant must obtain 80 hours in the two years prior to application and meet the requirements of Section 87. At least 20 of the 80 hours must be completed in the year prior to application, with at least 12 hours in subjects specified in Section 87(a)(2), and the 80 hours must be taken in specified subject matter areas of at least the following: (1) 16 hours in financial accounting standards; (2) 16 hours in auditing standards; (3) 8 hours in compilation and review; (4) 8 hours in other comprehensive basis of accounting; and, (5) 8 hours in the detection and/or reporting of fraud in financial statements.

This proposal would also require that certificates of completion be submitted to the Board, contain a verification certified by the program provider representative, such as a signature or seal, and, delineate the subject areas for which the applicant may claim credit.

**3. Amend Section 80 in Title 16 of the California Code of Regulations.**

This proposal would clarify that the minimum yearly CE requirement outlined in Section 87(a)(1) does not apply to licensees renewing a license from an inactive to an active status, correct paragraph numbering errors, and adjust section references due to the proposed adoption of Section 80.1 and proposed amendments to Sections 87, 87.1, and 88.

**4. Adopt Section 80.1 in Title 16 of the California Code of Regulations.**

This proposal would adopt Section 80.1 specifying the requirements to convert a license from an inactive to an active status prior to the license expiration date. Specifically, this amendment would renumber existing requirements for license conversion at Section 87.1 to 80.1, placing the existing requirements in this new section.

**5. Adopt Section 80.2 in Title 16 of the California Code of Regulations.**

This proposal would adopt Section 80.2 specifying the CE requirements for renewing a license in an active status after undergoing a license status conversion, pursuant to proposed Section 80.1, and the CE requirements if the license is renewed after the license expiration date. After undergoing license status conversion, this proposal would require that for each full six-month period from the date of license expiration to the date on which the licensee applies for license renewal, the licensee would be required to complete an additional 20 hours of continuing education, up to a total of 80 hours.

No CE would be required for license renewal after conversion if the time period between the date of license status conversion and the next license expiration date is less than six full months.

This proposal would specify additional CE requirements after conversion for a licensee who engages in financial or compliance auditing of a governmental agency or a licensee who engages in audit, review, compilation or attestation services at any time between the date of license status conversion and the license expiration date. This proposal would also require a licensee renewing an expired license after having undergone a license status conversion to complete an additional 20 hours of CE for each full six-month period from the date of license expiration to the date on which the licensee applies for license renewal, up to a total of 80 hours. For a licensee who is required to complete a total of 80 hours of CE after conversion, the following would also be required: (A) four hours of ethics CE; and (B) for those licensees required to comply with Section 80.2(c) or (d), four hours of CE related to the detection and/or reporting of fraud in financial statements. A licensee's willful failure to comply with this section would constitute cause for disciplinary action pursuant to Business and Professions Code section 5100(g).

**6. Amend Section 81 in Title 16 of the California Code of Regulations.**

This proposal would amend existing definitions for this section by specifying that the date of license renewal is the date "on which the licensee applies for" license renewal and by deleting the word "license" from the definition of "expired."

**7. Amend Section 87 in Title 16 of the California Code of Regulations.**

This proposal would move the existing requirements specified in Sections 88(a)(1), (a)(2), and (a)(3) regarding the criteria for programs that qualify as acceptable CE to proposed Sections 87(a)(2), (a)(3), and (a)(4). In addition, this proposal would specify the following courses that would not qualify as ethics education under Section 87(b): sexual harassment, workplace harassment, and workplace violence. This proposal would also: (a) clarify that the existing accounting and auditing CE requirement must be met for a licensee if the services were provided "while engaged in the practice of public accountancy"; (b) repeal existing subsection (f); (c) reduce the fraud CE requirement from eight to four hours; and, (d) adjust section references due to proposed amendments to Sections 88 and 89.

**8. Repeal Section 87.1 in Title 16 of the California Code of Regulations.**

This proposal would repeal Section 87.1 and relocate various existing requirements specified in this section to the proposed Sections 80.1 and 80.2.

**9. Adopt Section 87.1 in Title 16 of the California Code of Regulations.**

This proposal would adopt a new Section 87.1 specifying the CE requirements for new licensees renewing a license in an active status. This proposal would include requirements for:

- (a) CE to be completed on or after the date the initial license was issued;
- (b) completing twenty hours of CE for each full six-month period from the date the initial license was issued to the first license expiration date in specified subject areas described in Sections 87(a)(2) and (a)(3);
- (c) four hours of ethics education for licensees required to obtain a full 80 hours of CE to renew;
- (d) six hours of governmental auditing CE as part of each 20 hours of CE for licensees engaged in financial or compliance auditing of a governmental agency between the date the initial license was issued and the first license expiration date;
- (e) CE in the areas of governmental accounting and auditing to meet the requirements of Section 87(c);
- (f) six hours of accounting and auditing CE as part of each 20 hours of CE for licensees engaged in audit, review, compilation, or attestation services between the date the initial license was issued and the first license expiration date;
- (g) CE in the areas of accounting and auditing to meet the requirements of Section 87(d);
- (h) completing an additional twenty hours of CE if an initial license expires unless the time period between the date the license expires and the date licensee applies for renewal is less than six full months; and,
- (i) CE to be completed in the two-year period immediately preceding the date on which the licensee applies for renewal.

Failure to comply with the requirements of this Section would constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

**10. Repeal Section 87.7 in Title 16 of the California Code of Regulations.**

This proposal would repeal Section 87.7 as the requirements specified by this section are no longer applicable.

**11. Amend Section 87.8 in Title 16 of the California Code of Regulations.**

This proposal would remove a past implementation date and reference to the course previously required by Section 87.7.

**12. Amend Section 87.9 in Title 16 of the California Code of Regulations.**

The proposed amendment to Section 87.9(a)(1) regarding requirements for course providers offering a regulatory review course would exclude Sections 88.2(c)(1)(A) and (c)(1)(B) from the requirements of Section 87.9 and prohibit the use of true/false type questions on final examinations for self-study courses.

**13. Amend Section 88 in Title 16 of the California Code of Regulations.**

This proposal would repeal Sections 88(a)(1), (a)(2), and (a)(3), which are being relocated to proposed Sections 87(a)(2), (a)(3), and (a)(4). In addition, this proposal would: (a) specify the requirements for when the group viewing of webcast CE programs would be permissible; (b) specify how a live facilitator of a webcast would document and verify group participation and attendance; (c) establish the timeframe during which formal correspondence or individual study (self-study) courses must be completed; (d) clarify that credit may be allowed by the CBA on an “hour-for-hour basis” for certain types of activities under subsection (g); (e) add a new method for obtaining CE credit under subsection (g) (performing technical review of instructional materials as specified); (f) specify that the maximum credit allowed for the activities listed in subsection (g) shall not exceed 25 percent of the renewal period requirement; and, (h) specify that in order for any CE hours to be acceptable to the CBA it must be completed in a program which qualifies under this Section or Section 87.9.

This proposal would also correct paragraph numbering errors, and adjust section references due to proposed amendments to this section.

**14. Amend Section 88.1 in Title 16 of the California Code of Regulations.**

This proposal would: reduce the minimum required monitoring events for webcast programs from two monitoring events each half hour to three monitoring events each hour; specify the requirements for viewing recorded or archived webcast CE programs to include the requirement that a recorded or archived webcast have a live subject-matter expert facilitate the program, or otherwise meet the self-study requirements of subsection (c), Section 88 and Section 88.2(c); and, adjust section references due to proposed amendments to Sections 87 and 88.

**15. Amend Section 88.2 in Title 16 of the California Code of Regulations.**

This proposal would add new requirements for self-study courses to qualify as acceptable CE under Section 88(d). Specifically, this proposal would: delete the present method for calculating credit hours for self-study CE programs and would replace it with two alternatives; require the self-study course to clearly define lesson objectives and manage the participant through the learning process, as specified; prohibit the use of true/false type questions on final examinations; and adjust section references due to proposed amendments to Sections 87 and 88. Finally, this proposal would eliminate the 90% passing score requirement for a self-study ethics class. Implementation of such a requirement presented an enforcement challenge to the Board as the Board currently has no authority to pre-approve these classes or course providers.

**16. Amend Section 89 in Title 16 of the California Code of Regulations.**

This proposal would add new requirements for licensees to report and maintain records of CE compliance for the Board. Specifically, this proposal would: require disclosure of the subject areas for the courses or programs claimed as qualifying CE hours; require retention of course purchase documentation; specify the document retention requirements for CE credit claimed for performing technical review of CE instructional materials as permitted by newly proposed Section 88(f)(4); clarify the Board’s authority to solicit documentation and require the licensee to provide copies of the documentation provided by this Section; and adjust section references due to proposed amendments to Section 87 and the proposed adoption of Sections 80.2 and 87.1.

Anticipated Benefits of the Proposal:

**Licensees:**

- The licensees will benefit from this regulation package due to rearranging regulation sections in a logical and less confusing manner.
- Renewals will become easier since CE requirements are more consistent with national standards.
- Licensees will experience new alternatives for compliance through the availability of new access to group-based internet courses, unlike the former regulations, and will be able to receive CE at no charge by performing specific “technical reviews” on selected CE courses.

**CE Providers:**

The maximum increase in revenues on CE providers would amount to \$208,840 annually.

- The beneficial impact to CE providers in the event that the entire affected population of applicants whose experience was obtained five or more years prior to application for licensure (75 in 2010/2011 FY) can potentially amount to a maximum of \$24,000 in additional CE revenue.
- The beneficial impact to CE providers in the event that the entire affected population of licensees (57 in 2010/2011 FY) requires reissuance of their cancelled licensure can potentially amount to a maximum of \$18,240 in additional CE revenue.
- The beneficial impact to CE providers should the entire affected population of first-time licensees (521 in 2010/2011 FY) who are delinquent and renew their licensure can potentially amount to a maximum of \$166,600 in additional CE revenue.

Unlike previous regulations, the CE providers will be able to use nationally standardized measurements to design and qualify a particular CE course, or they may request to have this done for them by non-affiliated CPAs who are compensated by receiving “free” CE credit for their services.

**Consumers:**

Consumers will benefit from these necessary changes. The regulation package will result in stronger, clearer CE requirements and greater access to methods of complying with CE for CPA professionals. Consequently, this proposal would provide greater assurances of reasonable currency of knowledge to the public. Further, California CE providers will now have the opportunity to develop CE courses that conform to national standards which reflect uniformly acceptable accountancy CE courses. Consequently, the public, which the Board is mandated to protect, will have access to accountancy services by practicing professionals who will have a greater likelihood of maintaining currency of knowledge, proficiency, and providing competent and ethical service in the performance of their duties.

Consistency and Compatibility with Existing State Regulations

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

INCORPORATION BY REFERENCE

None.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The focus of these regulation changes is CE-related affecting applicants for CPA licensure, licensees and

CE providers. Consequently the Board must verify the various CE requirements have been met. The changes in this regulatory package will have minimal and/or absorbable fiscal impacts to the Board other than the absorbable staff time to make one-time reference changes to the new regulations in guides, handbooks, and web materials. It is estimated that it will take the staff approximately 60 additional hours per year to review and verify that the requirements found in this regulation package have been met.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

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

**AND**

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

Over a 10-year lifetime, the total economic costs of this regulation package can range from \$0 to \$2,088,400. The potential \$208,840 annual cost would be borne by approximately 650 licensees annually which may affect firms if a firm decides to incur the cost for the licensee’s continuing education.

Cost Impact on Representative Private Person or Business:

Licensees

The estimated total economic impact on the licensees identified below could range from \$0 to \$208,840 annually.

- The estimated costs to the affected population of applicants whose experience was obtained five or more years prior to application for licensure (75 in 2010/2011 FY) requiring additional hours of CE can potentially range from \$0 to \$24,000 annually.
- The estimated costs to the affected population of licensees (57 in 2010/2011 FY) seeking CE related to the reissuance of their cancelled licensure can potentially range from \$0 to \$18,240 annually.
- The estimated costs to the affected population of first-time licensees (521 in 2010/2011 FY) seeking CE related to a delinquent licensure renewal can range from \$0 to \$166,600 annually.

CE Providers

It is not anticipated that the CE providers would need to hire additional instructors to address the increased demand for their courses. It is assumed that with the large number of providers, the workload could be absorbed with existing staff resources. Cost impacts to the CE providers resulting from this regulation package are considered to be minor and absorbable as a cost of doing business.

Effect on Housing Costs: None.

**EFFECT ON SMALL BUSINESS**

The Board has determined that the proposed regulations would affect small businesses.

**RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS**

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because the estimated economic impact does not exceed \$2,088,400 over the lifetime of the proposal.

Benefits of Regulation:

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

Business and Professions Code section 5000.1 states that "protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions." Continuing education ensures the continuing competency and currency of knowledge of licensees. This, in turn, benefits the welfare of the consumers of California who rely on the services provided by licensees.

**CONSIDERATION OF ALTERNATIVES**

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

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

**INITIAL STATEMENT OF REASONS  
AND INFORMATION**

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

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2000 Evergreen St., Ste. 250, Sacramento, California 95815.

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

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

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

**CONTACT PERSON**

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

Name: Matthew Stanley  
Address: 2000 Evergreen St., Ste. 250  
Sacramento, CA 95815  
Telephone No.: 916-561-1792  
Fax No.: 916-263-3678  
E-Mail Address: mstanley@cba.ca.gov

The backup contact person is:

Name: Kari O'Connor  
Address: 2000 Evergreen St., Ste. 250  
Sacramento, CA 95815  
Telephone No.: 916-561-1716  
Fax No.: 916-263-3678  
E-Mail Address: koconnor@cba.ca.gov

Website Access: Materials regarding this proposal can be found at [http://www.dca.ca.gov/cba/laws\\_and\\_rules/pubpart.shtml](http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml).

**TITLE 16. STATE BOARD OF GUIDE DOGS FOR THE BLIND**

NOTICE IS HEREBY GIVEN that the State Board of Guide Dogs for the Blind (herein after “Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held:

**September 17, 2012  
10:00 a.m.  
State Capitol, Room 125  
Sacramento, California, 95814**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on September 17, 2012 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 7208, 7210.6 and 17510.90 of the Business and Professions Code, and to implement, interpret or make specific Sections 7208, 7210.6, and 17510.90 of that Code; the Board is considering changes to Division 22 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST**

**A. Informative Digest**

Business and Professions Code section 7208 authorizes the Board to govern the admission of applicants for examination for licensure to instruct blind persons in the use of guide dogs or to engage in the business of training, selling, hiring, or supplying guide dogs for the blind; govern the operation of schools which furnish guide dogs; and train blind persons to use guide dogs.

**1. Amend section 2268.2.**

Existing regulation requires licensees to keep contribution records from all donors. Records must include the name and address

of the donor, the amount of the contribution, the date contributions were received, and the location of the bank or trust where funds are located.

» This proposed regulation would add a requirement that the licensee verify submission of all requisite forms, reports, and fees to the Attorney General’s Registry of Charitable Trusts Division.

**2. Amend section 2271.**

» Existing regulation states that a school shall provide adequate living quarters at the school where the guide dog and the person being taught to use the dog may live together. Such quarters are to be clean and sanitary.

» This proposed regulation would add additional, more specific explanations of clean and sanitary, as follows:

- Heating, cooling, ventilation, lighting, dormitories, class areas, kennels, and campus environs that are to be maintained and kept functional.
- Maintaining by the school of all valid permits required by any public agencies relating to the health and safety of the school’s facilities or equipment and that these permits be made available to the Board upon request.
- Deleting the requirement that a school have both a male and female attendant available to render assistance to a client.

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

» This proposed regulation would increase communication between the Board and Department of Justice to ensure compliance with reporting requirements and submission of fees.

» This proposed regulation clarifies the clean and sanitary conditions of guide dog schools for inspection purposes.

» This proposed regulation would amend the requirement of a male and female attendant to lessen the staffing burden for the guide dog schools.

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

This Board has evaluated this regulatory proposal and it is neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: There is no fiscal impact on public agencies unless non-compliance with school's facilities is discovered.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

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

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California. Because the Board relies on the input from the three (3) licensed schools, the feedback from the schools has not indicated any positive or negative impact on guide dog instructor jobs in the State.

Cost Impact on Representative Private Person or Business:

The Board has determined that there is no cost impact on private persons or places of business. There is no cost to guide dog users and the proposed language does not place any additional burdens on the schools which would result in additional costs. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses because the affected guide dog schools are non-profit organizations.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs and existing

businesses or the expansion of the businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents, worker safety, and the state's environment by maintaining a standard of clean and sanitary conditions for the guide dog schools.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the State Board of Guide Dogs for the Blind at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834.

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

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

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

CONTACT PERSON

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

Name: Antonette Sorrick, Executive Officer  
 Address: 1625 N. Market Blvd., Suite S-202  
 Sacramento, CA 95834  
 Telephone No.: (916) 574-7825  
 Fax No.: (916) 574-7829  
 E-Mail Address: antonette.sorrick@dca.ca.gov

The backup contact person is:

Name: Jean Kagimoto, Executive Assistant  
 Address: 1625 N. Market Blvd., Suite S-202  
 Sacramento, CA 95834  
 Telephone No.: (916) 574-7826  
 Fax No.: (916) 574-7829  
 E-Mail Address: jean.kagimoto@dca.ca.gov

Web site Access: Materials regarding this proposal can be found at [www.guidedogboard.ca.gov](http://www.guidedogboard.ca.gov).

**TITLE 17. CALIFORNIA AIR RESOURCES BOARD**

**NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATION FOR THE MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS AND CONFORMING AMENDMENTS TO THE DEFINITION SECTIONS OF THE AB 32 COST OF IMPLEMENTATION FEE REGULATION AND THE CAP-AND-TRADE REGULATION**

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to California's existing Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, California Code of Regulations, section 95100 et seq.), which was developed pursuant to requirements of the California Global Warming Solutions Act of 2006. The Board will also consider amendments to the definition sections of the AB 32 Cost of Implementation Fee regulation (title 17, California Code of Regulations, section 95200 et seq.) and the California Cap on Greenhouse Gas Emissions

and Market-Based Compliance Mechanisms regulation (title 17, California Code of Regulations, section 95800 et seq.) made to conform with the proposed amendments to the mandatory reporting regulation.

DATE: September 20, 2012  
 TIME: 9:00 a.m.  
 PLACE: California Environmental Protection Agency  
 Air Resources Board  
 Byron Sher Auditorium  
 1001 I Street  
 Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 20, 2012, and may continue at 8:30 a.m., September 21, 2012. This item may not be considered until September 21, 2012. Please consult the agenda for the meeting, which will be available at least 10 days before September 20, 2012, to determine the day on which this item will be considered.

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

**Sections Affected:** Proposed amendments to sections 95101, 95102, 95103, 95104, 95105, 95111, 95112, 95113, 95114, 95115, 95119, 95120, 95121, 95122, 95123, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, 95202, and 95802, title 17, California Code of Regulations. Proposed adoption of new section 95158, title 17, California Code of Regulations.

**Documents Incorporated by Reference:**

*Oil and Gas and Sulfur Operations in the Outer Continental Shelf*; 30 Code of Federal Regulations (CFR) Part 250, Subpart C (July 1, 2011 Edition);

*Year 2008 Gulfwide Emission Inventory Study (GOADS)*; U.S. Department of the Interior, OCS Study, BOEMRE 2010-045 (December 2010);

*Alternative Work Practice for Monitoring Equipment Leaks*; 40 CFR Part 60, Subpart A (July 1, 2011 Edition);

*Method 21 — Determination of Volatile Organic Compound Leaks*; 40 CFR Part 60, Appendix A-7 (July 1, 2011 Edition);

*Regulation of Fuels and Fuel Additives*, 40 CFR Part 80.40, 40 CFR Part 80.41, and 40 CFR Part 80.27. (July 1, 2011 Edition).

**Background:**

In 2006, the Legislature passed and Governor Schwarzenegger signed the California Global Warming Solutions Act of 2006 (Assembly Bill 32 (AB 32); Stats. 2006, chapter 488). In AB 32, the Legislature de-

clared that global warming poses a serious threat to the economic well-being, public health, natural resources, and environment of California. AB 32 created a comprehensive, multi-year program to reduce greenhouse gas (GHG) emissions in California, with the overall goal of restoring emissions to 1990 levels by the year 2020.

***Regulation for the Mandatory Reporting of Greenhouse Gas Emissions***

One of the requirements of AB 32 is that ARB must adopt a greenhouse gas reporting regulation. To comply with this requirement, the Board approved the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (reporting regulation) at its December 2007 Board meeting. The reporting regulation became effective on January 2, 2009. All relevant documents for the 2007 rulemaking, including the final regulation, are available at: <http://www.arb.ca.gov/regact/2007/ghg2007/ghg2007.htm>.

Over the past four years, ARB staff has implemented the California greenhouse gas reporting program established by the reporting regulation. Under the program, over 600 facilities and entities annually submit to ARB their greenhouse gas emissions data reports, which are verified as accurate and complete by ARB-accredited third-party verifiers. Information about the program can be found at:

<http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep.htm>.

At its December 2010 public hearing, the Board approved amendments to the reporting regulation to support the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms (title 17, CCR, section 95800 et seq.) (cap-and-trade regulation) data requirements, harmonize to the extent feasible with the United States Environmental Protection Agency's (U.S. EPA) Final Rule on Mandatory Reporting of Greenhouse Gases (rule), and align with the Western Climate Initiative (WCI) reporting structure. The amendments to the reporting regulation became effective on January 1, 2012. All relevant documents for the 2010 rulemaking, including the amended regulation, are available at:

<http://www.arb.ca.gov/regact/2010/ghg2010/ghg2010.htm>.

Since the approval of the 2010 amendments to the reporting regulation, there have been several changes and updates that affect the calculation methods in the regulation. In late 2011, U.S. EPA updated its rule for Petroleum and Natural Gas Systems (Title 40, Code of Federal Regulations, Part 98, Subpart W), correcting and updating several emissions calculation methods. ARB staff has also identified minor clarifications that are needed to ensure the reporting elements in the reporting

program are accurate and reflect their intended purpose. Finally, ARB staff identified reporting elements that need to be added to the reporting program to ensure effective implementation of the cap-and-trade program.

ARB staff is proposing targeted revisions to ARB's current reporting regulation necessary to align California's GHG emissions reporting with the changes discussed above, to streamline and avoid duplicate GHG reporting, and to continue to provide the highest quality data needed to support California's cap-and-trade regulation.

***AB 32 Cost of Implementation Fee and California Cap-and-Trade Regulations***

AB 32 authorized ARB, through Health and Safety Code section 38597, to adopt a schedule of fees to be paid by sources of GHG emissions to support the costs of carrying out AB 32 measures. At the Board's September 25, 2009 hearing, the Board directed ARB's Executive Officer to finalize the AB 32 Cost of Implementation Fee Regulation (fee regulation). The Executive Officer subsequently adopted these regulations and submitted them to the California Office of Administrative Law (OAL). The regulations were approved by OAL and became legally effective on July 17, 2010. The fee regulation requires sources of GHG emissions to pay a regulatory fee which is to be used to support the costs of implementing AB 32 measures. More information on the fee regulation may be found at: <http://www.arb.ca.gov/cc/adminfee/adminfee.htm>.

AB 32 also authorized ARB to adopt a market-based compliance mechanism in its regulations. From 2009 through 2011, ARB staff developed the overall options for a market-based mechanism program design and development. ARB staff conducted extensive public consultation, including more than 40 public meetings, to discuss and share ideas with the general public and key stakeholders on the appropriate structure of the cap-and-trade regulation. The cap-and-trade regulation, which went into effect on January 1, 2012, provides a fixed limit on GHG emissions from the sources responsible for about 85 percent of the state's total GHG emissions. The cap-and-trade regulation reduces GHG emissions by applying a declining aggregate cap on GHG emissions, and creates a flexible compliance system through the use of tradable instruments (allowances and offset credits).

In order to ensure consistency in terminology across the reporting regulation, fee regulation, and cap-and-trade regulation, revisions, additions, and deletions were made in the definition sections of the fee regulation and the cap-and-trade regulation to conform to the proposed amendments to the reporting regulation described below. Note that the conforming definitional changes herein are distinct from those cap-and-trade

regulation amendments approved by the Board in June 2012.

A description of the proposed action follows. The proposed amendments were initially presented in an informal discussion draft released on May 29 and subsequently discussed at a public workshop held May 30, 2012. Additional informal discussion drafts for electric power entity definitions and the proposed amendments to subarticle 5 were released on June 14<sup>th</sup> and 15<sup>th</sup>, respectively, and discussed in webinars held on June 19, 22, and 29, 2012. Staff considered the informal comments provided during and after these meetings in crafting the staff proposal.

### **Description of the Proposed Regulatory Action, Objectives, and Benefits**

The purpose of the proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions is to: (1) harmonize to the extent feasible with the U.S. EPA national greenhouse gas reporting requirements, (2) ensure sufficient accuracy and completeness in reported emissions and product data to support California's cap-and-trade program, (3) make clarifications to improve the understanding and transparency of reporting requirements and methodologies, and (4) ensure consistency in terminology used in the reporting regulation, fee regulation, and cap-and-trade regulation. Anticipated benefits of the proposed revisions include improved clarity for reporting entities as to their reporting and verification obligations, more accurate GHG emissions estimates from corrected or updated emissions calculation methods and emission factors, improved clarity to support the statewide greenhouse inventory program and continued robust methods for reporting emissions and product data in order to support ARB's cap-and-trade regulation. These benefits may also result in indirect benefits to the health and welfare of California residents, worker safety, and the state's environment by ensuring that the state has an accurate inventory of GHG emissions to support programs which will reduce emissions and directly improve the health and welfare of California residents, worker safety, and the state's environment.

To achieve these goals, amendments to the current reporting regulation are being proposed. Under this proposal, most of the current reporting requirements of the reporting regulation remain the same. Subarticle 5 has substantial text additions because ARB staff is proposing to add the reporting requirements and calculation methods from the U.S. EPA rule for Petroleum and Natural Gas Systems (Subpart W) directly into the reporting regulation rather than incorporate the federal rule by reference. For reporting entities, this improves clarity of the requirements and reduces confusion when ARB and U.S. EPA requirements differ. Overall though, the

reporting requirements for Petroleum and Natural Gas Systems are substantially the same as in the current reporting regulation, with the exception of amended emission factors and calculation methods based on recent U.S. EPA updates.

The following paragraphs describe the revisions that are included in this regulatory action to the reporting regulation. Conforming definitional amendments to the fee regulation and the cap-and-trade regulation are also described.

### **Subarticle 1. General Requirements for Greenhouse Gas Reporting**

Applicability and Cessation of Reporting Requirements. Instead of incorporating the applicability requirements and cessation of reporting requirements from U.S. EPA's rule by reference, ARB staff is proposing to set forth directly the text from the U.S. EPA rule in the mandatory reporting regulation. These additions will improve clarity for reporting entities in determining whether they are subject to the regulation. Additional clarifications were made in the applicability section to indicate that electricity-generating units not subject to 40 CFR Part 75 are subject to mandatory reporting under the general stationary combustion category and in the cessation of reporting section to clarify requirements for electric power entities.

Process Emissions. The reporting requirements for abbreviated reporters (facilities with less than 25,000 metric tons of carbon dioxide equivalents, MTCO<sub>2e</sub>) were modified to include the reporting of process emissions in emissions data reports and to determine the 10,000 MTCO<sub>2e</sub> threshold for abbreviated reporting. The purpose of this amendment is to obtain more complete emissions data and to track any effect of emissions "leaking" from facilities with emissions greater than 25,000 MTCO<sub>2e</sub> into activities by abbreviated reporter facilities. In the current reporting regulation, process emissions are calculated and reported only by facilities with emissions greater than 25,000 MTCO<sub>2e</sub>. An analysis by ARB staff, which is included in Chapter VI of the ISOR, indicates that this modification of the abbreviated reporting requirements will affect only a small number of facilities in California.

Measurement Accuracy Requirements. The measurement accuracy requirements have been clarified in these amendments. Specifically, the intent of the requirements has been explicitly included in section 95103(k) and a field accuracy assessment option has been added to reduce the risk of data losses going back more than one year. The currently enacted version of the reporting regulation includes requirements for the frequency of meter calibrations, which, depending on the approach, is about every three years. If a meter fails calibration, it is possible that data collected by that meter in

the past three years could be voided. In order to ensure that data losses due to failed calibrations do not result in a substantial loss of data for a multi-year time period, staff has proposed including an optional field accuracy assessment which would allow reporting entities to perform an annual test to ensure the meter is still calibrated accurately. Additionally, staff has proposed amendments to clarify that if a meter fails calibration, a reporter may also demonstrate by other means that the meter was indeed calibrated for a portion of the time since the last calibration.

**Product Data Verification Requirements.** The current reporting regulation requires product data to be verified and subject to material misstatement assessments for each single product data component. In order to be consistent with the reporting requirements for emissions data, ARB staff has proposed removing the verification requirement for each single product data and instead basing material misstatement assessments on the sum of all product components. This reduces the risk of a single minor product causing a material misstatement for all products that would be within the five percent accuracy requirement and invalidating their ability to receive allocations under the cap-and-trade program. This would be similar to how covered emissions data is verified and would be called covered product data. Additional information on product data verification is also covered in subarticle 4.

**Other.** Modifications, clarifications and additional definitions have been added to subarticle 1. The definitional changes were made to support the proposed regulatory changes identified in this notice. The majority of the definitional changes relate to amendments to subarticle 5 (petroleum and natural gas systems), because the calculation methods were added into the body of the regulation instead of being incorporated by reference. In order to ensure consistency in terminology between the reporting regulation and ARB's fee regulation and cap-and-trade regulation, conforming revisions, additions, and deletions are also proposed for the definition sections of both of those regulations (section 95202 of the fee regulation and section 95802 of the cap-and-trade regulation). In addition, the proposed amendments would require facilities to inform ARB whether they meet the statutory definition of a small business to assist in leakage analysis. Further modifications are proposed to correct internal references, as well as spelling and punctuation errors.

## **Subarticle 2. Requirements for the Mandatory Reporting of Greenhouse Gas Emissions from Specific Types of Facilities, Suppliers and Entities**

**Electric Power Entities.** The two main amendments proposed for electric power entity reporting are clarifications to the requirements for asset-controlling sup-

pliers and clarifications on the data used to generate the emission factors for specified sources and asset-controlling suppliers.

**Asset-Controlling Supplier Requirements.** The asset-controlling supplier application and reporting process has been clarified in these amendments. Previously, the asset-controlling supplier application process was ambiguous in certain areas, which generated many questions from stakeholders. Clarifications to the asset-controlling supplier application process and proposed language on the reporting requirements alleviate these concerns. Specifically, staff is proposing to clarify that if an entity chooses to seek asset-controlling supplier designation, it would need to report and verify annually, submit all necessary information to calculate their system emission factor, and in the case of an adverse verification statement, lose their status as an asset-controlling supplier, which includes their ARB-calculated system emission factor. Additionally, the amendments would remove the system emission factor for Bonneville Power Administration from the reporting regulation. Instead, ARB would publish any approved and calculated supplier system emission factors on the ARB website. This change was made to ensure consistency in the treatment of asset-controlling supplier emission factors. In the event that an asset-controlling supplier fails to report and verify the unspecified default emissions rate is applicable to emissions reports.

**Emission Factor Calculation Data Vintage.** Proposed language was added to indicate the vintage (i.e., year) of data for calculating the emission factors for specified sources and for asset-controlling suppliers. For example, for specified sources, a 2012 emission data report will be based on 2012 transaction data and 2011 emission factor data. However for an asset-controlling supplier, a 2012 emission data report will be based on 2012 transaction data and 2010 emission factor data. The additional lag time for the asset-controlling supplier is needed to ensure that power entities have advanced knowledge of the reporting and verification status of the asset-controlling supplier and the appropriate system emission factor before they use that factor in their emissions data reporting. All 2012 emission data reports would be submitted in 2013. ARB plans to post asset-controlling supplier emission factors to the ARB website prior to the end of each calendar year.

**Other Electric-Power Entity Issues.** Clarifications to wheeled power and the first point of receipt and final point of delivery were made. An additional reporting requirement for reporting renewable energy credit (REC) serial numbers was added to section 95111(g)(1)(M) to ensure accurate tracking of the RECs as they pertain to the RPS adjustment.

**Unit Aggregation.** ARB staff has proposed several clarifications to the unit aggregation requirements. In

the current reporting regulation, certain electricity-generating units did not have aggregation options that could streamline reporting. The proposed amendments include additional options and conditions for unit aggregation and other emission sources.

**Importers of Compressed Natural Gas and Liquefied Natural Gas.** In the current regulation, importers of compressed natural gas and liquefied natural gas were omitted. ARB staff is proposing amendments to include those entities in the mandatory reporting regulation.

**Other.** Minor clarifications to the product data reporting requirements were made for the refinery, hydrogen, and rare earths manufacturing sectors. Calcined coke was added to the product data reporting requirements because it is a product that is used to determine the allocation of allowances in the cap-and-trade regulation. Hydrogen production was modified to split out hydrogen gas and liquid hydrogen. In addition, clarifications to the transportation fuels and natural gas suppliers were made to improve clarity in the applicability rationale for these sectors. These amendments are proposed to clarify the requirements for these sectors with regards to the point of regulation.

**Subarticle 4. Requirements for Verification of Greenhouse Gas Emissions Data Reports and Requirements Applicable to Emissions Data Verifiers; Requirements for Accreditation of Emissions Data and Offset Project Data Report Verifiers.**

**Verification Services for Facilities Under 25,000 MTCO<sub>2e</sub>.** ARB staff has proposed deleting language from section 95130 that subjects facilities that may have significantly less than 25,000 MTCO<sub>2e</sub> of annual emissions to acquiring verification services. The intent of requiring verification services is to ensure that reporting entities with over 25,000 MTCO<sub>2e</sub> of emissions, or facilities that are electric power entities or that opt-in, report accurately and transparently and to provide for increased assurance for data used in the cap-and-trade program. It was not the intent of ARB staff to require small facilities subject to the zero emission threshold reporting requirements of section 95101, who do not have a cap-and-trade compliance obligation, to obtain verification services if they are below 25,000 MTCO<sub>2e</sub>.

**Other.** Proposed amendments to the regulation include definitional additions for sector specialty categories in the accreditation section, clarifications to the material misstatement calculation for product data, as discussed above, and minor clarifications to the conflict of interest section. The conflict of interest changes improve upon the clarity of how verification services that can be performed by verification bodies outside of the state are to be assessed.

**Subarticle 5. Reporting Requirements and Calculation Methods for Petroleum and Natural Gas Systems**

**Directly Include Calculation Methods and Reporting Requirements.** In the current version of the reporting regulation, the calculation methods and reporting requirements from the U.S. EPA rule were incorporated by reference. However, since adoption of the reporting regulation, the petroleum and natural gas systems section of the U.S. EPA rule have changed considerably. In order to improve stability of the methods and requirements for the California reporting program in the face of potential U.S. EPA changes, and improve clarity within the regulatory text, staff is proposing amendments to add all the calculation methods, definitions, and reporting requirements directly in subarticle 5 (as opposed to simply incorporating the U.S. EPA rule by reference). While the number of pages associated with this change appears substantial, the actual methodological differences from the U.S. EPA rule, and the current ARB regulation, which incorporated those U.S. EPA rule requirements, are minimal.

**Onshore Petroleum and Natural Gas Production Definition.** In the current regulation, the onshore petroleum and natural gas production industry segment definition includes the phrase: “associated with a well pad.” The amended regulation maintains this definition as opposed to updating to U.S. EPA’s new term: “associated with a single well pad.” The reason for maintaining the existing approach is to ensure a sufficient breadth of emissions is covered for onshore petroleum and natural gas production for the cap-and-trade regulation.

**Other.** The proposed amendments include modifications to the best available monitoring methods (BAMM). The proposed amendments would specifically allow the use of BAMM for certain calculation methods through the collection of 2012 data. However, in 2013, the use of BAMM will no longer be permitted. Lastly, modifications to the U.S. EPA rule also occurred in the following instances: additional industry segments are covered for pipeline and equipment blow-downs and flare stack emissions reporting; and a more stringent method for reporting of leaker emissions for onshore petroleum and natural gas production. These proposed changes were made because the U.S. EPA methods were not rigorous enough to support the needs of the cap-and-trade program and the statewide greenhouse gas inventory program.

Complete details are provided in the proposed regulation and the Initial Statement of Reasons, which are available at:

<http://www.arb.ca.gov/regact/2012/ghg2012/ghg2012.htm>.

**CONSISTENCY AND COMPATIBILITY  
WITH EXISTING STATE REGULATIONS**

Staff does not believe the proposed regulation is inconsistent or incompatible with existing state regulations.

**MANDATED BY FEDERAL LAW  
OR REGULATIONS**

This regulation is not mandated by federal law or regulations.

**COMPARABLE FEDERAL REGULATIONS**

As mentioned previously, the U.S. EPA requires mandatory GHG reporting (*Mandatory Reporting of Greenhouse Gases; Final Rule*. 40 CFR Parts 86, 87, 89, 90, 94, and 98. United States Environmental Protection Agency. October 30, 2009). Staff does not believe the proposed regulation is inconsistent with existing federal law. In fact, this proposed amended regulation was developed to minimize, to the greatest extent possible, any redundant State and federal reporting, while also ensuring that ARB is collecting the necessary additional information required by California's various GHG programs, including the cap-and-trade regulation, fee regulation, and the statewide GHG inventory.

**AVAILABILITY OF DOCUMENTS**

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The ISOR is entitled: "Staff Report: Initial Statement of Reasons for Rulemaking: Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions and Conforming Amendments to the Definition Sections of the AB 32 Cost of Implementation Fee Regulation and the Cap-and-Trade Regulation."

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, or by calling (916) 322-2990 within the 45 days prior to the scheduled hearing on September 20, 2012.

**AVAILABILITY OF FINAL  
STATEMENT OF REASONS**

Upon its completion, a Final Statement of Reasons (FSOR) will be available and copies may be requested

from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

**AGENCY CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Dr. David Edwards, Manager of ARB Climate Change Reporting Section, Planning and Technical Support Division at (916) 323-4887, or Ms. Joelle Hulbert Howe, Air Pollution Specialist, at (916) 322-6349.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit (916) 322-4011, or Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

**INTERNET ACCESS**

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at: <http://www.arb.ca.gov/regact/2012/ghg2012/ghg2012.htm>.

**FISCAL IMPACT AND ECONOMIC  
IMPACT ASSESSMENT/ANALYSIS**

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies, private persons and businesses in reasonable compliance with the proposed regulatory action are presented below. A detailed assessment of the fiscal and economic impacts of the proposed regulation is included in the Initial Statement of Reasons for this regulatory item. The cost summary described below is focused on the reporting regulation; the cap-and-trade and the fee regulations do not incur any costs for their conforming definitional changes.

**COSTS TO PUBLIC AGENCIES AND TO  
BUSINESSES AND PERSONS AFFECTED**

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

ready subject to the regulation, they will only have a small incremental cost to comply with the revised rule provisions. There will be no noticeable change in employment, business creation, elimination or expansion, or business competitiveness in California due to the proposed revisions.

#### ***Costs to Businesses and Private Individuals***

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative businesses and determined that there would be a potential net cost saving on businesses directly affected. Staff estimates that the total net saving is \$1.2 million over the course of 10 years for all affected entities, which can be further broken down to a saving of \$871,000 over 10 years for private businesses and a saving of \$356,600 for local government entities. The proposed revisions are not expected to impact state government entities and private persons. Chapter VI of the ISOR for the proposed regulation includes additional data on the estimated costs to facilities.

Facilities that are subject to the federal and California GHG reporting regulations regardless of emission level (i.e., electricity generation facilities subject to the federal Acid Rain Program and certain industries with process emissions) but that have total facility emissions of less than 25,000 MTCO<sub>2e</sub> can expect to see a total net incremental cost saving of \$1.2 million over the course of 10 years from the amendments due to the proposed exemption from third-party verification requirements. Facilities with process emissions that have combustion emissions of less than 25,000 MTCO<sub>2e</sub> are expected to incur a small incremental cost of up to \$2,000 per facility per year for including process emissions in their GHG reports.

For importers of compressed natural gas and liquefied natural gas, the proposed amendments may result in a cost increase of \$500–\$2,000 per facility per year for requiring these facility types to report and verify those fuels. The incremental cost for the oil and gas sector is expected to be \$259,000 over 10 years. Oil and gas facilities are expected to see an incremental cost increase of \$50 to \$2,000 per facility per year, depending on their industry segment and size. Oil and gas facilities in the other industry segments are expected to see an incremental cost ranging from a few hundred dollars to \$2,000 per facility per year. State-wide, most of the incremental costs are borne by the oil and gas sector, accounting for 70% of the total state-wide costs among the cost-incurring sectors. The incremental costs to the other industry sectors make up the remaining 30% of the state-wide costs.

#### ***Small Businesses***

The Executive Officer has determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses. Staff estimates that

approximately 3 small businesses may be affected in California. Some of these small business entities that have emissions less than 25,000 MTCO<sub>2e</sub> will see a cost saving from the exemption of third-party verification requirements. Other facilities may incur marginal incremental cost to comply with the proposed requirement to include process emissions in their GHG reports.

#### ***Costs to State Government and Local Agencies***

The proposed regulatory action will reduce costs to some local agencies. Like their counterparts in the private sector, publicly owned electricity-generating facilities with total facility emissions of less than 25,000 MTCO<sub>2e</sub> are expected to see a cost saving from the exemption of verification requirements. ARB anticipates that 9 electricity generating facilities operated by local government entities will see a collective saving of \$356,600 over 10 years. Because the regulatory requirements apply equally to all reporting categories and unique requirements are not imposed on local agencies, the Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies that is required to be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution. In addition, there are no other nondiscretionary costs or savings imposed upon local agencies.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings in federal funding to the state, or costs or mandate to any school district whether or not reimbursable by the state pursuant to Part 7 (commencing with section 17500), division 4, title 2 of the Government Code.

Adoption of the proposed revisions has no additional fiscal impact on ARB. No change in staffing level is needed to administer the program under the revised rule. ARB fiscal expenses needed for integrating the proposed amendments into the existing reporting systems are already accounted for in the current operational budget that was proposed in the previous amendment to the rule.

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

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not result in a creation or elimination of jobs within the State of Califor-

nia, or the creation or elimination of existing businesses within the State. Creation of jobs had already occurred at the inception of the reporting program in 2008 as it created the need for technical support for developing GHG emissions estimates, providing laboratory and other services, and providing emission verification services. These existing jobs should be retained, and staff does not anticipate noticeable job creation due to the smaller scope of this regulatory action.

Anticipated benefits of the proposed revisions include improved clarity for reporting entities as to their reporting and verification obligations, more accurate GHG emissions estimates from corrected or updated emissions calculation methods and emission factors, improved clarity to support the statewide greenhouse inventory program and continued robust methods for reporting emissions and product data in order to support ARB's cap-and-trade regulation. These benefits may also result in indirect benefits to the health and welfare of California residents, worker safety, and the state's environment by ensuring that the state has an accurate inventory of GHG emissions to support programs which will reduce emissions and directly improve the health and welfare of California residents, worker safety, and the state's environment.

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

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

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

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

ALTERNATIVES

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

or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Since the proposed amendments are made to the existing reporting regulation, fee regulation, and cap-and-trade regulation, and given that these proposed amendments do not have a significant adverse fiscal or economic impact, no alternatives, other than one in which no regulatory amendments would be made and ones in which the specific amendments to various sector requirements are compared to harmonization with the applicable U.S. EPA rule requirements, were considered. These alternatives are fully described in Chapter III of the ISOR.

ENVIRONMENTAL ANALYSIS

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

SUBMITTAL OF COMMENTS

Interested members of the public may present comments relating to this matter orally or in writing at the hearing, and comments may also be submitted by postal mail or electronic submittal before the hearing. The public comment period for this regulatory item will begin on August 6, 2012. To be considered by the Board, written submissions not physically submitted at the hearing must be submitted on or after August 6, 2012, and received **no later than 12:00 noon, September 19, 2012**, and must be addressed to the following:

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

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

**You can sign up online in advance to speak at the Board meeting** when you submit an electronic board item comment. For more information go to:

<http://www.arb.ca.gov/board/online-signup.htm>

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

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so

that ARB staff and Board members have additional time to consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

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

#### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 38510, 38530, 38560, 38562, 38564, 38570, 38571, 38580, 38597, 39600, 39601, 39607, 39607.4, and 41511. This action is proposed to implement, interpret and make specific sections 38501, 38505, 38510, 38530, 38560.5, 38564, 38565, 38570, 38580, 38597, 39600, 39601, 39607, 39607.4, and 41511 of the Health and Safety Code.

#### HEARING PROCEDURES

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

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

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

#### SPECIAL ACCOMMODATION REQUEST

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

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

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

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

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

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

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

#### NOTICE OF PROPOSED RULEMAKING

#### TITLE 27, CALIFORNIA CODE OF REGULATIONS

#### PROPOSED AMENDMENT TO SECTION 25903, APPENDIX A — THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

August 3, 2012

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to amend Title 27, Cal. Code of Regulations, section 25903, Appendix A<sup>1</sup>, to update and clarify the Proposition 65 summary that must be included as an attachment to all Notices of Violation that are served upon alleged violators of Proposition 65.

#### PUBLIC PROCEEDINGS

OEHHA is requesting public comment concerning these proposed amendments to the regulations. A public hearing to present oral comments will be scheduled

<sup>1</sup> All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated.

only upon request. Such a request must be submitted in writing by no later than **September 4, 2012**, which is 15 days before the close of the comment period on **September 17, 2012**. A notice for the public hearing, if one is requested, will be posted on the OEHHA web site at least ten days in advance of the hearing date. The notice will provide the date, time and location of the hearing. Notices will also be sent to those individuals requesting such notification.

Any public comments, regardless of the form or method of transmission, must be received by OEHHA by 5:00 p.m. on **September 17, 2012**, which is hereby designated as the close of the written comment period. If you submit your comments electronically, please include: "Section 25903 — Appendix A" in the subject line. Written comments regarding this proposed action may be sent by fax, mail or e-mail addressed to:

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

Comments sent by courier should be delivered to:

Monet Vela  
Office of Environmental Health Hazard Assessment  
1001 I Street, 23<sup>rd</sup> Floor  
Sacramento, California, 95814

If a hearing is scheduled and you have special accommodation or language needs, please contact Monet Vela at (916) 323-2517 or [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

#### CONTACT

Inquiries concerning the Proposition 65 proposed regulation amendments described in this notice may be directed to Monet Vela at (916) 323-2517 or by e-mail at [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) or by mail to OEHHA, P.O. Box 4010 Sacramento, California 95812-4010. Fran Kammerer is a back-up contact person for inquiries concerning processing of this action and is available at (916) 445-4693 or [fran.kammerer@oehha.ca.gov](mailto:fran.kammerer@oehha.ca.gov).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### BACKGROUND

Proposition 65 was enacted as a voters' initiative on November 4, 1986, and is codified at Health and Safety Code section 25249.5 et seq. OEHHA, within the

California Environmental Protection Agency, is the state entity responsible for the implementation of Proposition 65. OEHHA has the authority to adopt and amend regulations to further the purposes of Proposition 65<sup>2</sup>. Proposition 65 requires businesses to provide a warning when they knowingly cause an exposure to a chemical listed as known to cause cancer or reproductive toxicity. Proposition 65 also prohibits persons in the course of doing business from knowingly discharging or releasing a chemical known to the state to cause cancer or reproductive toxicity into water or onto or into land where it passes or probably will pass into a source of drinking water.

#### NOTICES OF VIOLATION

Businesses that violate Proposition 65 can be sued by state and local prosecutors or private individuals acting in the public interest. A private action, however, can only be started 60 days after a Notice of Violation has been sent by private persons enforcing the law to the Attorney General, district attorney, city attorney in the same jurisdiction and the alleged violator.

Under the current regulation, a notice of violation served upon an alleged violator must include as an attachment the Appendix A of Section 25903. The Appendix is a summary of Proposition 65, its requirements, exemptions, an explanation of how Proposition 65 is enforced and a telephone number where the recipient may obtain further information.

#### SPECIFIC BENEFITS OF THE AMENDED REGULATIONS

These regulatory amendments will update Appendix A and provide current information concerning Proposition 65 for businesses that have been served with a Proposition 65 Notice of Violation.

#### NO INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING REGULATIONS

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

#### RESULTS OF ECONOMIC IMPACT ANALYSIS (Gov. Code section 11346.3(b))

These minor regulatory amendments will not affect the creation or elimination of jobs within the State of

<sup>2</sup> Health and Safety Code section 25249.12 and Executive Order W-15-91.

California. The amendments will also not affect the creation, elimination, or expansion of businesses in the State of California. The proposed amendments simply update and clarify the existing summary of Proposition 65.

OEHHA finds there will be no economic impact related to these minor proposed regulatory amendments. The amendments do not impose any costs because they are simply a clarification and update of a summary of Proposition 65 that must be included as an attachment to the Notice of Violation sent to alleged violators by private persons enforcing the law.

#### AUTHORITY

Health and Safety Code section 25249.12.

#### REFERENCE

Health and Safety Code sections 25249.5, 25249.6, 25249.10(c), 25249.11, and 25249.12

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Because Proposition 65 by its terms<sup>3</sup> does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts; nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

#### COSTS OR SAVINGS TO STATE AGENCIES

Because Proposition 65 by its terms<sup>4</sup> does not apply to any State agency and this regulation is simply a clarification of the existing summary, OEHHA has initially determined that no significant savings or increased costs to any State agency will result from the proposed regulatory action.

#### EFFECT ON FEDERAL FUNDING TO THE STATE

OEHHA has initially determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

<sup>3</sup> See Health and Safety Code section 25249.11(b)

<sup>4</sup> See Health and Safety Code section 25249.11(b)

#### EFFECT ON HOUSING COSTS

OEHHA has initially determined that the proposed regulatory action will have no effect on housing costs because it does not impose any new mandatory requirements on any business.

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

OEHHA has made an initial determination that the adoption of the proposed amendments to the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation does not impose any new requirements upon private persons or businesses.

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

Because the proposed regulatory amendments do not impose any new mandatory requirements on businesses, the OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### EFFECT ON SMALL BUSINESSES

OEHHA has determined that the proposed regulatory action will not impose any mandatory requirements on small businesses. Proposition 65 expressly exempts businesses with less than 10 employees<sup>5</sup> from the warning and discharge requirements of the law.

#### CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA, would be more effective in carrying out the purpose for which Proposition 65 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.

<sup>5</sup> See Health and Safety Code section 25249.11(b)

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from Monet Vela at the e-mail or telephone number indicated above. The Final Statement of Reasons will also be available on OEHHA's web site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Project Summary:

**Project:** Mill Creek Bridge Scour Repair and Deck Rehabilitation Project Consistency Determination (2080-2012-012-01) (Caltrans)

**Description:** Construction of equipment storage areas and temporary access roads, temporary stream diversions and stream crossing structures, temporary removal of approximately 0.36 acre of riparian forest, and

placement of rock slope protection to protect the bridge abutments and center pier.

**Impacts:** Project impacts include temporary dewatering of 0.46 acre of stream habitat for spring-run chinook salmon and the temporary removal of up to 0.16 acre of riparian scrub and 0.36 acre of riparian forest within federally designated critical habitat for spring-run chinook salmon.

**Mitigation:**

- Caltrans will mitigate temporary impacts by placing habitat enhancement structures in-stream.
- Caltrans will also provide \$50,000 to U.S. Forest Service to apply sediment reduction treatments along 4 miles of dirt road that parallels the project site (Mill Creek).

**Comment:** Financial assurances are listed as a reference to a budget line item similar to funding assurance letter for an ITP.

**Recommendation: CONSISTENT**

Review Docs at:

U:\groups\HCPB\Shared Databases\CESA Permits\Permit Docs\2080 CDs\R1\2012\012 Mill Creek Bridge Scour Repair & Deck Rehabilitation Project

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

File# 2012-0608-01

BOARD OF PSYCHOLOGY

Delegation of Functions & Unprofessional Conduct

This rulemaking amends one section and adopts one section in Title 16 of the California Code of Regulations. This rulemaking delegates authority to the Executive Officer or in his or her absences his or her designee to approve settlement agreements for revocation, surrender or interim suspension of a license or registration. Additionally, authority is delegated to the Executive Officer or his or her designee to order an applicant for licensure to submit to a physical or mental examination pursuant to section 820 of the Business and Professions Code. The adoption of a new section clarifies that the inclusion of provisions in agreements

to settle civil disputes that would forbid another party to the dispute from contacting, cooperating with, or filing a complaint with the Board, or that would require another party to the dispute to attempt to withdraw a complaint the party has filed with the Board is “Unprofessional Conduct.” This rulemaking action further defines “Unprofessional Conduct” to include failure of the licensee or registrant to provide lawfully requested documents; failure to cooperate with an investigation; failure to report any disciplinary action taken by another licensing entity or authority; or failure to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the Board.

Title 16  
 California Code of Regulations  
 ADOPT: 1397.2 AMEND: 1380.4  
 Filed 07/23/2012  
 Effective 08/22/2012  
 Agency Contact: Linda Kassis (916) 263-0712

File# 2012-0606-02  
 CALIFORNIA FILM COMMISSION  
 California Film and Television Credit Program

This regulatory action amends the regulations and forms used for administering the California Film and Television Tax Credit program to facilitate and clarify the process for acquiring the tax credit. This program targets productions that are most likely to leave the state to take advantage of incentives being offered in other states and countries. It provides California tax credits for qualified expenditures in the production of a qualified motion picture in California.

Title 10  
 California Code of Regulations  
 AMEND: 5501, 5506  
 Filed 07/19/2012  
 Effective 08/18/2012  
 Agency Contact:  
 Amanda Esquivias (916) 324-7514

File# 2012-0307-02  
 CALIFORNIA POLLUTION CONTROL  
 FINANCING AUTHORITY  
 Public Agency Small Business Assistance Fee

This regulation exempts public agency applicants from paying a SBAF fee. The SBAF fee can range from sixty-six one hundredths of one percent of the face value of a tax exempt bond to three tenths of one percent of the face value of a tax exempt bond issued.

Title 4  
 California Code of Regulations  
 AMEND: 8035  
 Filed 07/23/2012  
 Agency Contact:  
 Alejandro Ruiz (916) 653-2749

File# 2012-0615-03  
 CALIFORNIA POLLUTION CONTROL  
 FINANCING AUTHORITY  
 Public Agency Small Business Assistance Fee

This regulation will exempt public agency applicants from paying a SBAF fee. The SBAF fee can range from sixty-six one hundredths of one percent of the face value of a tax exempt bond to three tenths of one percent of the face value of a tax exempt bond issued. According to the California Pollution Control Financing Authority, “this regulatory amendment will help public agencies better protect the health and safety of the public by lowering the cost of financing for pollution control projects.”

Title 4  
 California Code of Regulations  
 AMEND: 8035  
 Filed 07/23/2012  
 Effective 07/23/2012  
 Agency Contact:  
 Alejandro Ruiz (916) 653-2749

File# 2012-0606-05  
 MANAGED RISK MEDICAL INSURANCE  
 BOARD  
 AIM Paid Surrogacy Exclusion

The Access to Infants and Mothers (AIM) program is a state and federally-funded program administered by the Managed Risk Medical Insurance Board (Board). The AIM program provides low cost health insurance coverage to uninsured, middle income pregnant women. This certificate of compliance makes permanent the prior statutorily deemed emergency rulemaking action (OAL file no. 2011-1129-05EFP) that provided that maternity care is an excluded benefit under the AIM program for a subscriber who (a) enrolled in the program with an effective date on or after February 1, 2012, and (b) has entered into an agreement to serve as a paid surrogate mother. The prior action also defined “agreement to serve as a paid surrogate mother” for purposes of this excluded benefit. The current regulatory action adds that participating health plans shall not withhold, or seek reimbursement from, a participating provider who rendered maternity services excluded by this action when the provider had not been notified that the Subscriber had entered into an agreement to serve as a paid surrogate mother.

Title 10  
 California Code of Regulations  
 AMEND: 2699.301  
 Filed 07/19/2012  
 Effective 07/19/2012  
 Agency Contact: Dianne Knox (916) 324-0592

File# 2012-0606-06  
 MANAGED RISK MEDICAL INSURANCE BOARD  
 MIP Paid Surrogacy Exclusion

This certificate of compliance makes permanent the Board's prior emergency regulatory action (OAL file no. 2011-1129-04E) that provided that, effective on or after February 1, 2012, maternity care for a subscriber who serves as a paid surrogate is an excluded benefit. The prior emergency action also defined "agreement to serve as a paid surrogate mother" for purposes of this excluded benefit. The current regulatory action adds that participating health plans shall not withhold, or seek reimbursement from, a participating provider who rendered maternity services excluded by this action when the provider had not been notified that the Subscriber had entered into an agreement to serve as a paid surrogate mother.

Title 10  
 California Code of Regulations  
 AMEND: 2698.302  
 Filed 07/19/2012  
 Effective 07/19/2012  
 Agency Contact: Dianne Knox (916) 324-0592

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN February 29, 2012 TO  
 July 25, 2012**

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

**Title 2**

07/16/12 AMEND: 18215.3  
 07/09/12 ADOPT: 22620.1, 22620.2, 22620.3,  
 22620.4, 22620.5, 22620.6, 22620.7,  
 22620.8  
 06/28/12 AMEND: 649.32  
 06/19/12 AMEND: 56800

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

**Title 3**

06/19/12 ADOPT: 6970, 6972 AMEND: 6000  
 05/17/12 AMEND: 4603(i)  
 05/01/12 AMEND: 3423(b)  
 04/16/12 AMEND: 3591.19  
 04/16/12 AMEND: 3439  
 04/12/12 AMEND: 3591.21(b)  
 04/12/12 ADOPT: 3435(c)  
 04/12/12 AMEND: 3434(b)&(c)  
 04/03/12 ADOPT: 3639  
 04/03/12 ADOPT: 3439  
 04/02/12 AMEND: 480.9, 498, 499, 499.5, 500,  
 501, 576.1, 623, 755.2, 756.2, 760.2, 790,  
 790.2, 791, 791.1, 796.2, 797, 799, 820.1,  
 821.2, 900, 900.1, 900.2, 901.3, 901.8,  
 901.9, 901.11, 902, 902.15, 907.3, 909.3,  
 910.4, 910.7, 913, 913.1, 1180, 1180.11,  
 1200, 1204, 1205, 1210, 1235, 1242,  
 1246, 1246.14, 1247, 1256, 1266, 1268,  
 1269, 1271, 1300.1, 1310.1  
 03/20/12 AMEND: 1430.5, 1430.6, 1430.35,  
 1430.36, 1430.37, 1430.38  
 03/09/12 AMEND: 3436(b)  
 03/08/12 AMEND: 3437(b)  
 03/07/12 ADOPT: 1180, 1180.20, 1180.22,  
 1180.23, 1180.24, 1180.25, 1180.27,  
 1180.28, 1180.29, 1180.30, 1180.31,  
 1180.32, 1180.33, 1180.34, 1180.35,  
 1180.36, 1180.37, 1180.38, 1180.39  
 AMEND: 1180.1, 1180.2, 1180.3,  
 1180.3.1, 1180.3.2, 1180.13, 1180.14,  
 1180.15, 1180.16, 1180.17, 1180.18,  
 1180.19, 1180.31, 1180.32, 1180.33,

1180.34, 1180.35, 1180.36, 1180.37,  
1180.38, 1180.39, 1180.40, 1180.41  
REPEAL: 1180, 1180.21, 1180.22,  
1180.23, 1180.24, 1180.25, 1180.26,  
1180.27, 1180.28, 1180.29, 1180.30

**Title 4**

07/23/12 AMEND: 8035  
07/16/12 AMEND: 10050, 10051, 10052, 10053,  
10054, 10055, 10056, 10057  
06/25/12 AMEND: 8070, 8071, 8072, 8078,  
8078.2  
06/25/12 AMEND: 1663  
06/06/12 AMEND: 1843.3  
06/01/12 ADOPT: 5205 AMEND: 5000, 5054,  
5144, 5170, 5190, 5200, 5230, 5350,  
5370 REPEAL: 5133  
05/15/12 REPEAL: 61.3  
05/04/12 ADOPT: 10050, 10051, 10052, 10053,  
10054, 10055, 10056, 10057, 10058,  
10059, 10060  
04/30/12 ADOPT: 511 AMEND: 399  
04/26/12 AMEND: 2066  
04/19/12 ADOPT: 10192, 10193, 10194, 10195,  
10196, 10197, 10198, 10199  
04/17/12 AMEND: 53  
04/12/12 AMEND: 10317, 10325  
04/11/12 AMEND: 10302, 10310, 10315, 10317,  
10322, 10325, 10327, 10328  
04/04/12 AMEND: 5000, 5170, 5200, 5230, 5370,  
5500, 5540  
03/29/12 AMEND: 12008, 12335, 12342, 12345,  
12357, 12359  
03/21/12 AMEND: 12200, 12200.9, 12200.10A,  
12200.11, 12200.13, 12220, 12220.13,  
12342, 12464  
03/08/12 AMEND: 10032, 10033, 10034, 10035  
03/08/12 AMEND: 60, 60.5  
03/06/12 ADOPT: 4075  
03/05/12 AMEND: 10152, 10153, 10154, 10155,  
10157, 10159, 10160, 10161, 10162  
REPEAL: 10156, 10158, 10164  
03/02/12 AMEND: 8070  
02/29/12 AMEND: 8070, 8072, 8073, 8074

**Title 5**

06/12/12 ADOPT: 18004 AMEND: 18000, 18001,  
18002, 18003  
05/29/12 AMEND: 42600  
04/25/12 AMEND: 80028, 80301, 80442  
04/20/12 AMEND: 18013, 18054, 18111  
REPEAL: 18006, 18200, 18201, 18202,  
18203, 18205, 18206, 18207  
04/11/12 AMEND: 19816, 19816.1, 19845.2

04/02/12 ADOPT: 27000, 27001, 27002, 27003,  
27004, 27005, 27006, 27007, 27008,  
27009

04/02/12 ADOPT: 1039.2, 1039.3  
03/26/12 AMEND: 1216.1  
03/26/12 ADOPT: 620, 621, 622, 623, 624, 625,  
626, 627  
03/12/12 AMEND: 41000  
03/06/12 AMEND: 18600  
03/01/12 ADOPT: 30001.5

**Title 7**

07/03/12 AMEND: 219

**Title 8**

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

**Title 9**

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

**Title 10**

07/19/12 AMEND: 2698.302  
07/19/12 AMEND: 2699.301  
07/19/12 AMEND: 5501, 5506  
05/31/12 AMEND: 2318.6, 2353.1, 2354  
05/09/12 AMEND: 2698.208  
04/23/12 AMEND: 2355.1, 2355.2  
04/10/12 AMEND: 260.204.9  
04/09/12 ADOPT: 6400  
03/15/12 AMEND: 2690

**Title 11**

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

**CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 31-Z**

**Title 12**

06/04/12 AMEND: 506

**Title 13**

07/12/12 ADOPT: 345.58, 345.73 AMEND: 345.50, 345.52, 345.56, 345.74, 345.78, 345.86, 345.88, 345.90 REPEAL: 345.54, 345.58, 345.60

06/29/12 AMEND: 225.00, 225.03, 225.09, 225.12, 225.15, 225.18, 225.21, 225.24, 225.35, 225.36, 225.38, 225.42, 225.45, 225.54, 225.60, 225.63, 225.66, 225.69, 225.72 REPEAL: 225.06

04/19/12 ADOPT: 345.31, 345.32, 345.42 AMEND: 345.02, 345.04, 345.05, 345.06, 345.07, 345.11, 345.13, 345.15, 345.16, 345.18, 345.20, 345.22, 345.23, 345.24, 345.27, 345.28, 345.29, 345.30, 345.34, 345.36(renumbered to 345.33), 345.38 (renumbered to 345.35), 345.39 (renumbered to 345.36), 345.40, 345.41 REPEAL: 345.17, 345.21, 345.25, 345.26

04/10/12 ADOPT: 553.30 AMEND: 553, 553.10, 553.20, 553.50, 553.70, 553.72

02/29/12 AMEND: 553

**Title 14**

07/12/12 AMEND: 790, 851.20, 851.21, 851.22, 851.25, 851.26, 851.27, 851.27.1, 851.28, 851.29, 851.30, 851.31, 851.32

07/09/12 ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8

07/02/12 ADOPT: 602

06/28/12 ADOPT: 17944.1, 17945.1, 17945.4, 17946, 17946.5, 17948.1, 17948.2 AMEND: 17943, 17944, 17946(a)-(h) renumber as 17945.2, 17946(i) renumber as 17945.3, 17946.5 renumber as 17945.5, 17947, 17948, 17948.5, 17949 REPEAL: 17942, 17944.2, 17944.5, 17945

06/25/12 AMEND: 791.7

06/06/12 ADOPT: 18950, 18951, 18952, 18953, 18954, 18955, 18955.1, 18955.2, 18955.3, 18956, 18957, 18958

06/01/12 REPEAL: 660

05/30/12 AMEND: 11960

05/29/12 AMEND: 360, 361, 362, 363, 364, 365, 708.12

05/21/12 AMEND: 703

05/21/12 AMEND: 7.50

05/21/12 AMEND: 705

05/17/12 AMEND: 7.50

05/07/12 ADOPT: 18835, 18836, 18837, 18838, 18839

05/01/12 AMEND: 27.80

05/01/12 ADOPT: 4870, 4871, 4872, 4873, 4874, 4875, 4876, 4877

05/01/12 AMEND: 791.7, 870.17

04/30/12 AMEND: 632

04/27/12 AMEND: 228, 228.5

04/05/12 AMEND: 28.29, 52.10, 150.16

04/03/12 ADOPT: 791.6 AMEND: 791.7, 795, 796

03/28/12 AMEND: 11900, 11945

03/26/12 AMEND: 11960

03/22/12 AMEND: 27.80

**Title 15**

07/02/12 ADOPT: 3999.12

06/26/12 ADOPT: 1712.1, 1714.1, 1730.1, 1740.1, 1748.5 AMEND: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.1, 1747.5, 1748, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788 REPEAL: 1757

06/26/12 ADOPT: 3079, 3079.1 AMEND: 3000, 3075.2, 3075.3

06/26/12 AMEND: 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, 3521.2

06/06/12 AMEND: 3000, 3006, 3170.1, 3172.1, 3173.2, 3315, 3323

05/10/12 ADOPT: 3375.6 AMEND: 3000, 3375

04/11/12 AMEND: 3187, 3188

04/09/12 AMEND: 3172.2

04/05/12 AMEND: 3341.5, 3375.2, 3377.1

04/02/12 ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000

03/28/12 ADOPT: 3352.3 AMEND: 3350.1, 3352, 3352.1, 3352.2, 3354, 3354.2, 3355.1, 3358

03/19/12 ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323

03/12/12 ADOPT: 3999.11

03/08/12 ADOPT: 8006

03/08/12 AMEND: 3315, 3323

**Title 16**

07/23/12 ADOPT: 1397.2 AMEND: 1380.4

07/17/12 ADOPT: 1399.23, 1399.24 AMEND: 1398.4

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

06/18/12 ADOPT: 1727.2 AMEND: 1728

06/18/12 AMEND: 443

06/14/12 ADOPT: 302.5

05/25/12 ADOPT: 1399.364, 1399.375, 1399.377, 1399.381, 1399.384 AMEND: 1399.301, 1399.302, 1399.303, 1399.320, 1399.330, 1399.352.7, 1399.353, 1399.360, 1399.370, 1399.374, 1399.376

(renumbered to 1399.382), 1399.380, 1399.382 (renumbered to 1399.383), 1399.383 (renumbered to 1399.385), 1399.384 (renumbered to 1399.378), 1399.385 (renumbered to 1399.379), 1399.395 REPEAL: 1399.340, 1399.381, 1399.387, 1399.388, 1399.389, 1399.390, 1399.391

05/17/12 ADOPT: 4544, 4600, 4602, 4604, 4606, 4608, 4610, 4620, 4622 AMEND: 4422, 4440, 4446, 4470

05/14/12 AMEND: 932

05/04/12 ADOPT: 2509, 2518.8, 2524.1, 2568, 2576.8, 2579.11 AMEND: 2503, 2524.1 (renumber to 2524.5), 2563, 2579.11 (renumber to 2579.20)

04/27/12 AMEND: 407, 428

04/26/12 AMEND: 3605

04/23/12 AMEND: 3005

04/16/12 ADOPT: 2295, 2295.1, 2295.2, 2295.3 AMEND: 2252, 2275, 2284

03/30/12 AMEND: 3340.43, 3394.3, 3394.4, 3394.5, 3394.6, 3394.7

03/29/12 AMEND: 109, 116, 117, 121

03/19/12 AMEND: 4155

03/08/12 AMEND: 318

03/07/12 AMEND: 2615, 2620

03/07/12 AMEND: 1889.2 REPEAL: 1832.5

03/07/12 AMEND: 2615, 2620

03/07/12 AMEND: 1889.2 REPEAL: 1832.5

**Title 17**

06/15/12 AMEND: 6508

04/18/12 AMEND: 100607, 100608

03/28/12 AMEND: 100080

03/15/12 ADOPT: 58883

03/15/12 AMEND: 6020, 6035, 6051, 6065, 6070, 6075

03/12/12 AMEND: 95307

**Title 18**

07/10/12 AMEND: 1205, 1212, 1271

07/10/12 AMEND: 1105, 1120, 1132, 1161

07/10/12 AMEND: 1435, 1436

07/10/12 AMEND: 25128.5

07/03/12 AMEND: 3301

07/03/12 AMEND: 263

05/01/12 AMEND: 1685.5

03/26/12 ADOPT: 25137-8.2 AMEND: 25137-8 (re-numbered to 25137-8.1)

**Title 22**

07/12/12 AMEND: 66263.18, 66263.41, 66263.43, 66263.44, 66263.45, 66263.46

07/12/12 AMEND: 66268.40, 66268.48

07/09/12 AMEND: 4416

07/03/12 AMEND: 51516.1

06/28/12 AMEND: 91477

06/21/12 AMEND: 50195, 50197, 50256, 50258, 50258.1, 50262, 50268, 50815, 51000.53

06/12/12 AMEND: 66261.32

05/24/12 AMEND: 90417

05/22/12 ADOPT: 60098, 64400.05, 64400.29, 64400.36, 64400.41, 64400.66, 64400.90, 64402.30, 64400.46 AMEND: 60001, 60003, 63790, 63835, 64001, 64211, 64212, 64213, 64252, 64254, 64256, 64257, 64258, 64259, 64400.45, 64415, 64463.1, 64463.4, 64470, 64481, 64530, 64531, 64533, 64534, 64534.2, 64534.4, 64534.6, 64534.8, 64535, 64535.2, 64535.4, 64536.6, 64537, 64537.2 REPEAL: 60430, 64002, 64439, 64468.5

05/17/12 AMEND: 51240, 51305, 51476

05/04/12 AMEND: 123000

04/11/12 AMEND: 97174

03/15/12 ADOPT: 123000 and Appendices REPEAL: 123000 and Appendices

**Title 23**

07/11/12 ADOPT: 597, 597.1, 597.2, 597.3, 597.4

07/05/12 AMEND: 570, 571, 572, 573, 574, 575, 576

04/23/12 ADOPT: 3979.4

04/10/12 AMEND: 2631

04/09/12 ADOPT: 3969.1

04/05/12 AMEND: 645

03/21/12 ADOPT: 3969

03/21/12 ADOPT: 3939.41

03/21/12 ADOPT: 3939.44

03/15/12 ADOPT: 3939.43

03/12/12 AMEND: 2922

03/09/12 ADOPT: 3919.11

02/29/12 ADOPT: 3939.42

**Title 25**

06/07/12 ADOPT: 4326, 4328 AMEND: 4004, 4200, 4204, 4208

03/13/12 ADOPT: 6932 REPEAL: 6932

**Title 27**

07/12/12 AMEND: 25305, 25701, 25705, 25801

06/18/12 AMEND: 25705

03/26/12 AMEND: 25705

03/15/12 AMEND: 25705

**Title MPP**

06/25/12 AMEND: 40-105.4(g)(1), 44-111.23, 44-113.2, 44-133.54(QR), 44-315.39(QR), 89-201.513

06/25/12 AMEND: 41-440, 42-716, 42-717, 44-207

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06/25/12 AMEND: 40-107, 42-301, 42-302,  
42-431, 42-712, 42-713, 42-716,  
42-717, 42-721, 44-133, 44-307,  
44-316, 82-833  
04/11/12 AMEND: 47-230, 47-240, 47-401  
03/15/12 AMEND: 25705