



California Regulatory Notice Register

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AUGUST 23, 2013

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture amended subsection 3591.12(a) of the regulations in Title 3 of the California Code of Regulations pertaining to Peach Fruit Fly Eradication Area as an emergency action which was effective July 11, 2013. The Department intends to retain this amendment of the regulation by submitting a Certificate of Compliance no later than January 7, 2014. The Department is also proposing to amend subsection 3591.12(b), Title 3, California Code of Regulations.

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

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to Stephen.Brown@cdfa.ca.gov. The written comment period closes at 5:00 p.m. on October 7, 2013. The Department will consider only comments received at the Department offices by that time. Submit comments to:

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

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

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

Anticipated Benefits from This Regulatory Action

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

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

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

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

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

This regulation will benefit the public's general welfare by providing authority for the State to perform detection, control and eradication activities against peach fruit fly in Napa, San Bernardino and Solano counties.

The implementation of this regulation will prevent:

- Direct damage to the agricultural industry growing host fruits.
- Indirect damage to the agricultural industry growing host fruits due to the implementation of quarantines by other countries and loss of export markets.
- Increased production costs to the affected agricultural industries.
- Increased pesticide use by the affected agricultural industries.
- Increased costs to the consumers of host fruits.
- Increased pesticide use by homeowners and others.
- The need to implement a State interior quarantine.
- The need to implement a federal domestic quarantine.

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

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

AMENDED TEXT

Napa, San Bernardino and Solano counties were added to the Peach Fruit Fly Eradication Area regulation as an emergency action. The proposed action will extensively amend the host list of the Peach Fruit Fly Eradication Area regulation. The effect of the amendment of this regulation is to provide authority for the State to perform eradication activities against the peach fruit fly in the counties of Napa, San Bernardino and Solano.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.
 Cost or savings to any state agency: None.

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

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

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

Cost impacts on a representative private person or business: 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.

Small Business Determination

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

Significant effect on housing costs: None.

Results of the Economic Impact Analysis

Amendment of these regulations will not:

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

The Department has determined the amendment of this regulation would benefit:

- The general public
- Homeowners and Community Gardens
- Agricultural industry
- The State’s general fund

There are no known specific benefits to worker safety or the health of California residents.

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to amend subsections 3591.12(a) and 3591.12(b) pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Lindsay Rains at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/plant/Regulations.html).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

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

TITLE 8. DIVISION OF WORKERS' COMPENSATION

Subject Matter of Regulations: Workers' Compensation — Predesignation of Personal Physicians and Reporting Duties of the Primary Treating Physician

**TITLE 8. CALIFORNIA CODE OF REGULATIONS
Sections 9780.1 et seq.**

NOTICE IS HEREBY GIVEN that the Acting Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 59, 133, 4603.5, and 5307.3 proposes to revise sections 9780, 9780.1, 9783, 9783.1, and 9785 of Article 5 of Division 1, Chapter 4.5, Subchapter 1, of Title 8, California Code of Regulations, relating to the predesignation of personal physicians; requests for change of physician; and reporting duties of the primary treating physician.

PROPOSED REGULATORY ACTION

The Division of Workers' Compensation proposes to amend Article 5 of Division 1, Chapter 4.5 Subchapter 1, of Title 8, California Code of Regulations by amending regulations commencing with section 9780.

1. **Amend section 9780** Definitions.
2. **Amend section 9780.1** Employee's Predesignation of Personal Physician.
3. **Amend section 9783** DWC Form 9783 Predesignation of Personal Physician.
4. **Amend section 9783.1** DWC Form 9783.1 Notice of Personal Chiropractor or Personal Acupuncturist.
5. **Amend section 9785** Reporting Duties of the Primary Treating Physician.

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, either orally or in writing, with respect to the subjects noted above. The hearing will be held at the following time and place:

- Date:** October 7, 2013
Time: 10:00 a.m. to 5:00 p.m., or conclusion of business
Place: 455 Golden Gate Avenue — Auditorium San Francisco, CA 94102-3688

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities are available upon request.

Please contact the Statewide Disability Accommodation Coordinator, Kathleen Estrada, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The Acting Administrative Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 p.m., on October 7, 2013**. The Division of Workers' Compensation will consider only comments received at the Division by that time. Equal weight will be accorded to comments presented at the hearing and to other written comments received by 5:00 p.m. on that date by the Division.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to :

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation, Legal Unit
Post Office Box 420603
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: dwcrules@dir.ca.gov.

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than **5:00 p.m. on October 7, 2013**.

AUTHORITY AND REFERENCE

The Acting Administrative Director is undertaking this regulatory action pursuant to the authority vested in

her by Labor Code sections 59, 133, 4603.5, and 5307.3.

Reference is to Labor Code sections 4061, 4061.5, 4062, 4600, 4600.3, 4603.2, 4604.5, 4610.5, and 4658.7.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Existing law establishes a workers' compensation system, administered by the Acting Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Labor Code section 4600 requires an employer to provide medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury.

The proposed amendments to existing regulations are required by a legislative enactment: Senate Bill 863 (Statutes of 2012, Chapter 363; effective January 1, 2013). Senate Bill 863 amended Labor Code section 4600 which addresses, inter alia, medical treatment provided by an employer, liability for reasonable expenses and predesignation of a personal physician.

Labor Code section 4600(c) provides that, unless the employer or the employer's insurer has established or contracted for a Medical Provider Network as provided for in section 4616, after 30 days from the date the injury is reported the employee may be treated by a physician or facility of his or her own choice within a reasonable geographic area. However, a chiropractor shall not be a treating physician after the employee has received the maximum number of chiropractic visits (24) allowed by Labor Code section 4604.5(d). This prohibition does not apply to the provision of postsurgical physical medicine prescribed by the surgeon or physician designated by the surgeon pursuant to the postsurgical component of the medical treatment utilization schedule.

Labor Code section 4600(d)(1) provides that if an employee has notified his or her employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by that physician from the date of injury if the employee has health care insurance coverage for non-occupational injuries or illnesses on the date of injury.

Labor Code section 4600(d)(3) provides that if the employee has health care insurance coverage for non-occupational injuries or illnesses on the date of injury and the employer is notified pursuant to paragraph (d)(1), all medical treatment, utilization review of med-

ical treatment, access to medical treatment, and other medical treatment issues shall be governed by Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code. Disputes regarding the provision of medical treatment shall be resolved pursuant to Article 5.55 (commencing with Section 1374.30) of Chapter 2.2 of Division 2 of the Health and Safety Code.

Labor Code section 4616 provides that an employer may establish a Medical Provider Network. An employee who predesignates a personal physician, however, may choose to be treated outside of the Medical Provider Network by his or her personal physician. Labor Code section 3551 provides that written notice to new employees shall include a form that the employee may use as an optional method for notifying the employer of the name of the employee's "personal physician" as defined in section 4600, or "personal chiropractor" or "personal acupuncturist" as defined by section 4601.

Uncodified section 84 of Senate Bill 863 provides that: "This act shall apply to all pending matters, regardless of date of injury, unless otherwise specified in this act, but shall not be a basis to rescind, alter, amend, or reopen any final award of workers' compensation benefits."

The Acting Administrative Director now proposes to amend administrative regulations governing the predesignation of a personal physician; requests for change of physician; and primary treating physician reporting requirements. These regulations implement, interpret, and make specific section 4600 of the Labor Code as follows:

Section 9780: Definitions.

This section lists and defines the terms used in regulations relating to the predesignation of a personal physician, the request for a change of physician, the reporting duties of the primary treating physician, and the petition for change of the primary treating physician.

Subdivision (e), setting forth the definition of "non-occupational group health coverage," is deleted. The subsequent subdivisions have been re-lettered.

Section 9780.1: Employee's Predesignation of Personal Physician.

This section sets forth the process for an employee to predesignate a personal physician to provide him or her with medical treatment in case of a work-related injury or illness.

Subdivision (a)(1) is amended to provide that a written notice of the predesignation of a personal physician must include, in addition to the personal physician's name and business address, the name of the plan, policy, or fund providing the employee with health care coverage for nonoccupational injuries or illnesses as required by subdivision (a)(2).

Subdivision (a)(2) is amended to provide that, as one of the requirements for an employee to predesignate a personal physician, the employee must have health care coverage for nonoccupational injuries or illnesses on the date of injury in a plan, policy, or fund as described in subdivisions (b), (c), and (d) of Labor Code Section 4616.7. The requirement that the employer provide nonoccupational health care coverage is deleted.

Subdivision (e), which requires employers to notify their employees of the predesignation requirements in accordance with California Code of Regulations, title 8, section 9880, is deleted. The subsequent subdivisions have been re-lettered.

Subdivision (f) has been re-lettered as subdivision (e).

Subdivision (g) has been re-lettered as subdivision (f). Proposed subdivision (f)(4) is amended to include the form set forth at section 9785.5 (The DWC Form RFA) as one that must be provided to the predesignated personal physician.

Subdivision (h) has been re-lettered as subdivision (g).

Subdivision (i) has been re-lettered as subdivision (h). Proposed subdivision (h) is amended to provide that if documentation of the physician's agreement to be predesignated has not been provided to the employer as of the time of injury, treatment may be provided by an MPN that has either been established by the employer or insurer, or contracted for.

Section 9783: DWC Form 9783 Predesignation of Personal Physician.

This section contains the optional form for an employee to use to predesignate a personal physician to provide him or her with medical treatment in case of a work-related injury or illness.

The form is being amended to state that an employee may predesignate a personal physician if, in addition to the other required preconditions, the employee has health care coverage for nonoccupational injuries or illnesses on the date of injury.

The form is also being amended to provide space for the employer to provide the name of the insurer that covers them for nonoccupational injuries or illness.

Section 9783.1: DWC Form 9783.1 Notice of Personal Chiropractor or Personal Acupuncturist.

This section contains the optional form for an employee to use to predesignate a personal chiropractor or personal acupuncturist to provide him or her with medical treatment in case of a work-related injury or illness if a request to change a physician is made under Labor Code section 4601.

The form is being amended to advise the employee that for dates of injury on or after January 1, 2004, a chiropractor cannot be a treating physician after the em-

ployee has received 24 chiropractic visits unless the employer has authorized additional visits in writing. The form will also advise the injured worker that:

- the term “chiropractic visit” means any chiropractic office visit, regardless of whether the services performed involve chiropractic manipulation or are limited to evaluation and management.
- once the employee has received 24 chiropractic visits, if the employee still requires medical treatment, the employee will have to select a new physician who cannot be a chiropractor. This prohibition shall not apply to the provision of postsurgical physical medicine prescribed by the surgeon or physician designated by the surgeon pursuant to the postsurgical component of the Division of Workers’ Compensation’s Medical Treatment Utilization Schedule.

The form is also being amended to clarify that it is an optional form.

Section 9785: Reporting Duties of the Primary Treating Physician.

This section sets forth the reporting duties of the Primary Treating Physician.

Subdivision (a)(1), which defines the term “primary treating physician,” and (a)(2), which defines the term “secondary physician” are being amended to state that:

- for dates of injury on or after January 1, 2004, a chiropractor shall not be a treating physician after the employee has received the maximum number of chiropractic visits allowed by subdivision (c)(1) of Section 4604.5 (24) unless the employer has authorized additional visits in writing;
- this prohibition shall not apply to the provision of postsurgical physical medicine prescribed by the surgeon or physician designated by the surgeon pursuant to the postsurgical component of the medical treatment utilization schedule; and,
- for purposes of each subdivision, the term “chiropractic visit” means any chiropractic office visit, regardless of whether the services performed involve chiropractic manipulation or are limited to evaluation and management.

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The objective of the regulations is to conform the existing regulations on medical treatment and physician reporting to the changes enacted by Senate Bill 863. In addition, minor grammatical and other textual revisions are being made.

DETERMINATION OF INCONSISTENCY AND/OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Acting Administrative Director has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Acting Administrative Director has concluded that these are the only valid regulations to implement the statutory mandates put in place by Senate Bill 863.

DUPLICATION OF LABOR CODE PROVISIONS

The proposed regulations repeat various provisions of Labor Code sections 3551, 4600, and 4616, as amended or added by Senate Bill 863. Duplication is necessary for the purpose of clarity so the regulations and forms provide notice to employees of the comprehensive and detailed procedures for medical treatment for injured workers.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Acting Administrative Director has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None. No fiscal impact exists because this regulation changes a rule to conform to statute, where the cost of compliance is equivalent for both the existing and amended provisions.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None. This regulation only conforms regulations to statute and amends forms, whose use is optional.
- Other nondiscretionary cost or savings imposed on local agencies: No fiscal impact exists because this regulation changes a rule to conform to statute, where the cost of compliance is equivalent for both the existing and amended provisions.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business: The division is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- Statewide adverse economic impact directly affecting businesses and individuals: Although the proposed action will directly affect businesses statewide, including small businesses, and individuals, the Acting Administrative Director concludes that the adverse economic impact, including the ability of California businesses to compete with business in the other states, will not be significant.
- Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

The Acting Administrative Director concludes that it is (1) unlikely that the proposal will create any jobs within the State of California, (2) unlikely that the proposal will eliminate any jobs within the State of California, (3) unlikely that the proposal will create any new businesses within the State of California, (4) unlikely that the proposal will eliminate any existing businesses within the State of California, and (5) unlikely that the proposal would cause the expansion of the business currently doing business within the State of California.

The regulations affect all California employers and worker’s compensation insurers, but it has no cost impact beyond the minor cost of replacing existing forms with updated forms in conformance with recently enacted statute. Senate Bill 863 expanded the eligibility of employees to designate their personal physicians to provide treatment in the event of occupational injury. Research has found no substantial cost difference between personal physicians and employer–assigned physicians. The regulations also interpret and clarify the 24–visit cap on chiropractic visits that was enacted by SB 899 (Stats. of 2004, Ch. 34) for the purpose of implementing SB 863’s prohibition on chiropractors serving as an injured worker’s treating physician after 24 visits (for injuries on or after January 1, 2004). The clarification will produce minor cost savings by reducing disputes over claims for non–chiropractic treatment by chiropractors in excess of the statutory cap on visits. Some chiropractors will see reduction in their income by being barred from being paid for chiropractic visits in excess of the statutory cap.

Benefits of the Proposed Action: Workers whose injuries are treated by their personal physicians usually experience greater satisfaction with treatment than workers treated by employer–assigned physicians, while the medical outcomes and cost of treatment are equivalent.

Small Business Determination: The Acting Administrative Director has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Acting Administrative Director must determine that no reasonable alternative considered or that has otherwise been identified and brought to the Acting Administrative Director’s attention would be more effective in carrying out the purpose for which the actions are proposed, or would be as effective and less burdensome to affected private persons than the proposed actions, or would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Acting Administrative Director invites interested persons to present reasonable alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A text of draft proposed regulations was made available for pre–regulatory public comment from November 6–16, 2012 through the Division’s Internet message board (the DWC Forum). In addition, a pre–rulemaking stakeholder meeting was held to receive input on the development of the regulations.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE/INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, proposed text of the regulations, pre–rulemaking comments and the Economic Impact Statement (Form STD 399). Also included are studies and documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Division’s website at www.dir.ca.gov. To access them, click on the “Proposed Regulations — Rulemaking” link and scroll down the list of rulemaking proceedings to find the Predesignation of Personal Physician rulemaking link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 18th Floor, Oakland, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday, unless the state office is closed for a state holiday. Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142
E-mail: mgray@dir.ca.gov

The telephone number of the contact person is (510) 286-7100.

**CONTACT PERSON FOR
SUBSTANTIVE QUESTIONS**

In the event the contact person is unavailable, or to obtain responses to questions regarding the substance of the proposed regulations, inquiries should be directed to the following backup contact person:

James M. Robbins, Industrial Relations Counsel III
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142
E-mail: jrobbins@dir.ca.gov

The telephone number of the backup contact persons is (510) 286-7100.

**AVAILABILITY OF CHANGES FOLLOWING
PUBLIC HEARING**

If the Acting Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

**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 contact person named in this notice or may be accessed on the Division's website at www.dir.ca.gov.

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, and the text of the regulations, will automatically be sent to those interested persons on the Acting Administrative Director's mailing list.

If adopted, the regulations as amended will appear in title 8, California Code of Regulations, commencing with section 9780. The text of the final regulations will also be available through the website of the Office of Administrative Law at www.oal.ca.gov.

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

**"Class II-L Identification and Protection
Amendments, 2013"**

**Title 14 of the California Code of
Regulations (14 CCR),
Division 1.5, Chapter 4, Subchapters 4, 5, 6,
Article 6 — Watercourse and Lake Protection**

Amend:

§ 895.1

§§ 916.9

[936.9,956.9](c)(4)

§§ 916.9

[936.9, 956.9](g)

Definitions.

**Protection and Restoration
in Watersheds with
Threatened or Impaired
Values.**

Class II Watercourses.

The California State Board of Forestry and Fire Protection (Board) is promulgating a regulation to amend existing Forest Practice Rules. The proposed

amendments are intended to clarify the Board's intent with regard to identification and protection of watercourses designated as "Class II-Large" (Class II-L).

PUBLIC HEARING

The Board will hold a public hearing on Wednesday, October 9, 2013, at its regularly scheduled meeting beginning at 8:00 a.m., at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 p.m., on Monday, October 7, 2013. The Board will consider only written comments received at the Board office by that time and those written comments received in connection with oral testimony at the public hearing.

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

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
 Attn: Eric Huff
 Regulations Coordinator
 P.O. Box 944246
 Sacramento, CA 94244-2460

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

Board of Forestry and Fire Protection
 Room 1506-14
 1416 9th Street
 Sacramento, CA

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

(916) 653-0989

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

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Public Resources Code Sections 4551 and 4562.7. Reference: Public Resources Code Sections 4512, 4513, and 4551.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is authorized under Public Resources Code Sections 4551 and 4562.7 to adopt Forest Practice Rules for the protection of streams. Public Resources Code Section 4562.7 requires, among other things, that the Board of Forestry and Fire Protection (Board) adopt rules to prevent "unreasonable effects on the beneficial uses of the waters of the state." In September 2009, the Board adopted a comprehensive revision of watercourse protection rules for timber operations now commonly referred to as the "Anadromous Salmonid Protection Rules." These Rules included the new designation of a "Class II-Large" (Class II-L) watercourse to be differentiated from the previously existing "standard Class II" (Class II-S) watercourse.

During the initial implementation phase of the Board's newly adopted regulations, members of the regulated public expressed concerns about the Department of Forestry and Fire Protection's (CAL FIRE's) interpretation and enforcement of the Class II-L identification and minimum protection distance provisions. Specifically, it was contended that CAL FIRE's interpretation of the Class II-L regulations did not conform to the plain-English reading of the Rule text. As the Class II-L protection requirements are more restrictive than the Class II-S requirements, the implications of CAL FIRE's allegedly more inclusive interpretation of the Class II-L provisions appeared to be significant.

Based upon the testimony received by the Board from both the regulated public and regulatory agencies, it appears that the adopted Class II-L rule language has resulted in significant differences of opinion. The confusion and controversy exhibited in the testimony at numerous meetings leads the Board to conclude that a rule amendment to further clarify the intent and implementation of the Class II-L identification provisions should be considered.

Following Board authorization, a 45-day Notice of Rulemaking was published September 7, 2012 and an

initial hearing conducted at the Board’s regularly scheduled meeting of November 7, 2012. Upon conclusion of the public hearing, the Board remanded the proposal back to its Forest Practice Committee for further work. Thereafter, the Forest Practice Committee undertook review and consideration of revisions to the previously noticed proposal. Following several months of public testimony and two staff field visits to test elements of revised rule text, the Board authorized the release of this second 45–day Notice of Rulemaking under the slightly revised moniker, “Class II–L Identification and Protection Amendments, 2013.”

This subsequent new 45–day Notice version of the rule proposal would significantly amend portions of the existing Forest Practice Rules for Class II watercourses. Among the amendments is inclusion of two new metrics by which differentiation between Class II–Standard and Class II–Large watercourses would be achieved. These new metrics focus on contributing drainage area and average active channel width. The term “active channel width” is also defined in the rule proposal under amended § 895.1. Another proposed rule provision is clarification of the protection distance for Class II–L watercourses and a companion mapping requirement. The concluding proposed amendment establishes a five–year sunset date by which time the Board is to evaluate the efficacy of the rule amendments.

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED ADOPTION, AMENDMENT, OR REPEAL OF THE REGULATION

The most significant benefit anticipated from the adoption of the regulation is an immediate improvement in regulatory certainty for owners and managers of commercial timberland.

The proposed regulation is the result of an ongoing dispute over the interpretation of an existing rule section. This dispute could be resolved as a result of the proposed action.

Whether or not adoption of the proposed regulation will have an effect on the level of environmental protection is unclear. It is unknown just how many Class II watercourse segments would be affected by the proposed regulations. The maximum protection distance has been clarified in the proposed regulation to be 1,000 feet or the total length of a Class II watercourse. This is understood to be an increase in the protection distance, though this same distance appears to have been imposed under the existing regulations as well. Regardless, it may be presumed that the level of protective effect upon the environment will not be reduced as a result of this proposed regulation. This is largely due to the combined effect of the entire Forest Practice Rule Ar-

ticle from which the proposed regulation has been excerpted for clarifying improvement.

The proposed regulation is not expected to have an effect upon public health and safety, worker safety, the prevention of discrimination, or the promotion of fairness or social equity. Neither is the proposed regulation expected to result in an increase in the openness and transparency in business and government.

IS THE PROPOSED REGULATION INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS

The Board and Department of Forestry and Fire Protection have considered the consistency and compatibility of the rule proposal with existing state regulations. The proposed rulemaking is intended to clarify existing Forest Practice Rule requirements previously adopted by the Board and implemented by the Department. Adoption and implementation of the State’s Forest Practice Rules is solely the responsibility of the Board and Department, respectively. The two agencies therefore conclude the proposed rulemaking is entirely consistent and compatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION AND RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The results of the economic impact assessment prepared pursuant to GC § 11346.5(a)(10) for this proposed regulation indicate that it will not result in an adverse economic impact upon the regulated public or regulatory agencies. Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

The Board 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.

While it may be speculated that the proposed regulation could benefit the environment, it is not expected to affect the health and welfare of California residents or improve worker safety.

Cost impacts 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. The cost of timber harvest planning and operational mitigations is not likely to be significantly affected by the proposed regulation.

Effect on small business:

No effect to small business is anticipated as the proposed rulemaking attempts to promote regulatory certainty through adoption of clarifying rule amendments to existing rule sections.

Mandate on local agencies and school districts:

The proposed regulation does not impose a mandate on local agencies and school districts.

Costs or savings to any State agency:

Costs or savings to state timber review agencies are not anticipated.

Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500:

The proposed regulation does not impose a reimbursable cost to any local agency or school district.

Other non-discretionary cost or savings imposed upon local agencies:

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

Cost or savings in federal funding to the State:

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

Significant effect on housing costs:

The proposed regulation will not significantly affect housing costs.

Conflicts with or duplication of Federal regulations:

The proposed regulations neither conflict with, nor duplicate Federal regulations. There are no comparable Federal regulations for timber harvesting on State or private lands.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

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

Board of Forestry and Fire Protection
 Attn: Eric Huff
 Regulations Coordinator
 P.O. Box 944246
 Sacramento, CA 94244-2460
 Telephone: (916) 653-9633

The designated backup person in the event Mr. Huff is not available is Mr. George Gentry, Executive Officer of the California Board of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request. When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address.

All of the above referenced information is also available on the Board web site at: http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

“Commercial Species Definitions Amendments, 2013”

Title 14 of the California Code of Regulations (14 CCR):

Division 1.5, Chapter 4, Subchapter 1, Article 1 — Abbreviations and Definitions

Amend:

§895.1 Definitions

The California State Board of Forestry and Fire Protection (Board) is soliciting review and comment on proposed regulatory amendments of the existing Forest Practice Rules. The proposed amendments are intended to acknowledge that the native Monterey pine (*Pinus radiata*) is not managed by itself as a commercial species in California. The amendments are also intended to remove impediments to the treatment of hazardous fuels conditions caused by the presence of nonnative, highly flammable eucalyptus species (*Eucalyptus sp.*).

The regulatory proposal also incorporates two corrections to the scientific names for incense cedar (*Calocedrus decurrens*) and tanoak (*Notholithocarpus densiflorus*). These corrections recognize that the genus for both species was revised as a result of taxonomical research.

PUBLIC HEARING

The Board will hold a public hearing on Wednesday, October 9, 2013, at its regularly scheduled meeting commencing at 8:00 a.m., at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Di-*

gest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 p.m., on Monday, October 7, 2013.

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

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Eric Huff
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

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

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

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

(916) 653-0989

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

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Public Resources Code Sections 4526 and 4551. Reference: Public Resources Code Sections 4511, 4525.5, 4527, 4528, 4551.5, 4553, and 4581.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

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

Public Resources Code Section 4526 defines “Timberland” as, “. . . land other than land owned by the federal government and land designated by the board [of forestry and fire protection] as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.”

Pursuant to this statutory direction, the Board has identified by Forest District a number of tree species in the definition of “commercial species” contained in 14 CCR § 895.1. The Board also bifurcated the commercial species lists for the three Forest Districts into “Group A” and “Group B” species. “Group A” tree species are the higher value conifer species used in the manufacture of most lumber products. “Group B” tree species are the lower value species typically managed incidentally with the higher value Group A species. That is, Group B species are not themselves commercially viable and require the presence of Group A species in order to cover the cost of their management and removal. Post-harvest stocking standards contained in the Forest Practice Rules reflect this fundamental difference.

The current State Forest Practice Rule definition for “commercial species” includes both Monterey pine and eucalyptus. Ironically, though the Forest Practice Rules recognize both Monterey pine and eucalyptus as possessing commercial value, in reality there is currently no commercial value for either species. The expense of managing the two species is not offset by recovery of merchantable woody material. Though sawlogs, fuelwood, or wood chips may be produced, there is currently no economically viable outlet for these raw material products. Yet, wherever Monterey pine and eucalyptus are proposed for removal from private or non-federal public lands in the Coast and Southern Forest Districts, a state-approved commercial timber harvest permit is required. This requirement is not altered by the existence of any other approved California Environmental Quality Act (CEQA) documents such as Environmental Impact Reports or Negative Declaration documents. This duplicative permitting requirement represents nothing more than added cost to what is already a very costly endeavor.

This rulemaking proposal would therefore remove eucalyptus from the commercial species lists for the Coast and Southern Forest Districts. It would also move Monterey pine from the Group A category to the Group B category for the two Districts. This latter rule revision would still allow Monterey pine to be harvested as a commercial conifer species for use in wood product manufacturing pursuant to the Forest Practice Rules. But, it would also allow tree removals for other purposes such as native species restoration under other existing CEQA authorities without triggering the necessity for additional Forest Practice Rule permitting. Together, these two minor revisions to the Forest Practice Rules would alleviate the existing condition of dual CEQA permitting authorities.

The regulatory proposal also incorporates two minor corrections to the scientific names for incense cedar (*Calocedrus decurrens*) and tanoak (*Notholithocarpus densiflorus*). These corrections recognize that the genus for both species was revised as a result of taxonomical research.

SPECIFIC BENEFITS ANTICIPATED BY THE
PROPOSED ADOPTION, AMENDMENT, OR
REPEAL OF THE REGULATION

The rulemaking proposal itself merely reclassifies two species of tree such that their removal would no longer trigger a State Forest Practice Rule permitting requirement. However, it is possible that certain beneficial byproduct effects relative to the environment and public/worker safety could occur as a result of the regulation. This regulation could lead to more treatment of hazardous fuels conditions by removing a costly and duplicative permitting requirement. Managers of private and non-federal public lands would be free to rely upon existing and prospective large-scale environmental disclosure documents pursuant to CEQA. Hazardous fuels conditions on such lands in proximity to urban residents could be treated to reduce risk and promote fire resiliency. Such treatments could also reduce risks to the general public and fire protection personnel thereby improving public and worker safety. Opportunities for restoration of native plant and tree species may also be greater as a byproduct of this regulation. Such opportunities, while perhaps abstract in nature, could provide environmental benefits.

IS THE PROPOSED REGULATION
INCONSISTENT OR INCOMPATIBLE WITH
EXISTING STATE REGULATIONS

The Board and Department of Forestry and Fire Protection have considered the consistency and compatibility of the rule proposal with existing state regula-

tions. The proposed rulemaking is intended to modify existing Forest Practice Rule requirements previously adopted by the Board and implemented by the Department. Adoption and implementation of the State's Forest Practice Rules is solely the responsibility of the Board and Department, respectively. The two agencies therefore conclude the proposed rulemaking is entirely consistent and compatible with existing state regulations. The proposed regulation would eliminate a duplicative permitting requirement for the removal of Monterey pine and eucalyptus trees. The requirements of the California Environmental Quality Act, state and federal Endangered Species Acts, and other environmental laws and regulations would not be affected by this proposed regulation.

DISCLOSURES REGARDING THE PROPOSED ACTION AND RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The results of the economic impact assessment prepared pursuant to GC § 11346.5(a)(10) for this proposed regulation indicate that it will not result in an adverse economic impact upon the regulated public or regulatory agencies. Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

The regulation itself does not provide benefits to the health and welfare of California residents or improve worker safety. However, it would eliminate an unnecessary and unintended regulatory hurdle currently impeding hazardous fuel reduction activities in proximity to many California residents and workers. In this way, the rulemaking proposal does create prospective benefits for Californians and may improve the safety of fire protection personnel in particular.

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

Cost impacts on representative private persons or businesses:

No such cost impacts have been identified.

Effect on small business:

No adverse effect upon small business has been identified. The proposed regulation removes an unintended impediment to the treatment of hazardous fuels conditions under separately approved CEQA authorizations. This impediment is in the form of duplicative permitting requirements affecting the planning rather than operational stages of fuel reduction projects. The Board

may only speculate that small businesses engaged in fuel reduction projects could be the beneficiaries of reduced planning costs. Otherwise, small businesses are unlikely to notice any effect from the proposed rulemaking.

Mandate on local agencies and school districts:

The proposed regulation does not impose a mandate on local agencies and school districts.

Costs or savings to any State agency:

Though some cost savings to state timber review agencies may occur, such savings are not expected to be significant.

Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500:

The proposed regulation does not impose a reimbursable cost to any local agency or school district.

Other non-discretionary cost or savings imposed upon local agencies:

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

Cost or savings in federal funding to the State:

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

Significant effect on housing costs:

The proposed regulation will not significantly affect housing costs.

Conflicts with or duplication of Federal regulations:

The proposed regulations neither conflict with, nor duplicate Federal regulations. There are no comparable Federal regulations for timber harvesting on State or private lands.

BUSINESS REPORTING REQUIREMENT

The regulation does not impose a business reporting requirement.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of

the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
 Attn: Eric Huff
 Regulations Coordinator
 P.O. Box 944246
 Sacramento, CA 94244–2460
 Telephone: (916) 653–9633

The designated backup person in the event Mr. Huff is not available is Mr. George Gentry, Executive Officer of the California Board of Forestry and Fire Protection. Mr. Gentry may be contacted at the above address or by phone at (916) 653–8007.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request. When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address.

All of the above–referenced information is also available on the Board web site at: http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice.

If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,

- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

“ROAD RULES, 2013”

**Title 14 of the California Code of Regulations (14 CCR),
 Division 1.5, Chapter 4, Subchapters 1, 4, 5, 6,
 Articles 4, 5, 6, 8, and 12; Subchapter 7, Articles 2,
 6.5, 6.8, 6.9, and 7**

Amend:

§ 895.1	Definitions
§ 914.7 [934.7, 954.7]	Timber Operations, Winter Period
§ 914.8 [934.8, 954.8]	Tractor Road Watercourse Crossing
§ 915.1 [934.8, 954.8]	Use of Heavy Equipment for Site Preparation
§ 916.3 [936.3, 956.3]	General Limitations Near Watercourses, Lakes, Marshes, Meadows and Other Wet Areas
§ 916.4 [936.4, 956.4]	Watercourse and Lake Protection
§ 916.9 [936.9, 956.9]	Protection and Restoration of the Beneficial Functions of the Riparian Zone in Watersheds with Listed Anadromous Salmonids
§ 918.3 [938.3, 958.3]	Roads to be Kept Passable
§ 923 [943, 963]	Logging Roads and Landings
§ 923.1 [943.1, 963.1]	Planning for Roads and Landings
§ 923.2 [943.2, 963.2]	Road Construction
§ 923.3 [943.3, 963.3]	Watercourse Crossings
§ 923.4 [943.4, 963.4]	Road Maintenance
§ 923.5 [943.5, 963.5]	Landing Construction
§ 923.6 [943.6, 963.6]	Conduct of Operations on Roads and Landings

- § 923.7 [943.7, 963.7] **Licensed Timber Operator Responsibility for Roads and Landings**
- § 923.8 [943.8, 963.8] **Planned Abandonment of Roads, Watercourse Crossings, and Landings**
- § 923.9 [943.9, 963.9] **Roads and Landings in Watersheds with Listed Anadromous Salmonids**
- § 1034 **Contents of Plan**
- § 1051.1 **Contents of Modified THP**
- § 1090.5 **Contents of NTMP**
- § 1090.7 **Notice of Timber Operations Content**
- § 1092.09 **PThP Contents**
- § 1093.2 **Contents of Road Management Plan**
- § 1104.1 **Conversion Exemptions**
- Repeal:**
- § 918.3 [938.3, 958.3] **Roads to be Kept Passable**
- § 923.9.1 [943.9.1] **Measures for Roads and Landings in Watersheds with Coho Salmon**

Adopt:

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

The California State Board of Forestry and Fire Protection (Board) is promulgating a regulation to amend existing Forest Practice Rules and adopt a Technical Rule Addendum. This comprehensive rulemaking proposal is intended to satisfy two long-term objectives of benefit to the regulated public, regulatory agencies, the general public, and the natural resources of the State. The first of these objectives is to ensure that all road-related Forest Practice Rules are adequate to prevent adverse impacts to beneficial uses of water. The second objective is to organize all road-related Forest Practice Rules into a logical, consistent order and locate them in one portion of the Forest Practice Rulebook for ease of reference and understanding by all.

PUBLIC HEARING

The Board will hold a public hearing on Wednesday, October 9, 2013, at its regularly scheduled meeting beginning at 8:00 a.m., at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that per-

sons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 p.m., on Monday, October 7, 2013. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
 Attn: Eric Huff
 Regulations Coordinator
 P.O. Box 944246
 Sacramento, CA 94244-2460

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

Board of Forestry and Fire Protection
 Room 1506-14
 1416 9th Street
 Sacramento, CA

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

(916) 653-0989

Written comments may also be delivered via e-mail at the following address: board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 4551, 4551.5, 4553, 4554.5, 4562.5, 4562.7, 4562.9, 4581, 4582, 4582.75, 4593, 4621, and 21082 Public Resources Code. Reference: Sections 4551, 4551.5, 4553, 4554.5, 4562.5, 4562.7, 4562.9, 4581, 4582, 4582.75, 4593, 4621, and 21080.5 Public Resources Code.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The Board is authorized under Public Resources Code Sections 4551, *et seq.* to adopt regulations, “. . .to assure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish and wildlife, and water resources, including, but not limited to, streams, lakes, and estuaries.” The Board is proposing a regulation to revise and improve upon existing protections of the aforementioned resources, most notably water resources, from the potentially adverse impacts associated with roads, landings, and watercourse crossings. In addition, the regulation is intended to reorganize all Forest Practice Rule sections associated with roads, landings, and watercourse crossings into a more coherent and useful format and location for the benefit of the regulated and regulator alike. Lastly, the rule proposal includes a new “Board Technical Rule Addendum Number 5 — Guidance on Hydrologic Disconnection, Road Drainage, Minimization of Diversion Potential, and High Risk Crossings.”

The purpose of this new element in the rule proposal is to provide guidance to the regulated and regulator alike toward compliance with the proposed rule amendments.

SPECIFIC BENEFITS ANTICIPATED BY THE
PROPOSED ADOPTION, AMENDMENT, OR
REPEAL OF THE REGULATION

The most significant benefit anticipated from the adoption of the regulation is increased or improved hydrologic disconnection of road networks and watercourse crossings from associated watercourses. The current Forest Practice Rules contain a definition for “hydrologic disconnection,” however, application of this term for practical purposes has been lacking for some time. It is anticipated that this rule proposal could result in improvement of watercourse conditions relative to existing and newly constructed roads and watercourses. However, the level of positive effect may be somewhat difficult to discern. The existing Forest Practice Rules are comprehensive in their application to resource protection and enhancement. This could mean that the beneficial environmental effects of the proposed regulatory amendments would not be terribly obvious in the short term. Monitoring and maintenance of logging road networks and crossings as specified in the proposed rule amendments and otherwise are expected to yield useful affirmation of the effects of the rule proposal over the long-term.

The proposed regulation is not expected to have an effect upon public health and safety, worker safety, the prevention of discrimination, or the promotion of fair-

ness or social equity. Neither is the proposed regulation expected to result in an increase in the openness and transparency in business and government.

IS THE PROPOSED REGULATION
INCONSISTENT OR INCOMPATIBLE WITH
EXISTING STATE REGULATIONS

The Board and Department of Forestry and Fire Protection have considered the consistency and compatibility of the rule proposal with existing state regulations. The proposed rulemaking is intended to modify existing Forest Practice Rule requirements related to logging roads, landings, and watercourse crossings previously adopted by the Board and implemented by the Department. Adoption and implementation of the State’s Forest Practice Rules is solely the responsibility of the Board and Department, respectively. The two agencies therefore conclude the proposed rulemaking is entirely consistent and compatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED
ACTION AND RESULTS OF THE ECONOMIC
IMPACT ANALYSIS

The results of the economic impact assessment prepared pursuant to GC § 11346.5(a)(10) for this proposed regulation indicate that it will not result in an adverse economic impact upon the regulated public or regulatory agencies.

Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

The Board 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.

While it is anticipated the proposed regulation could benefit the environment, it is not expected to affect the health and welfare of California residents, improve worker safety, prevent discrimination, promote fairness or social equity, or result in an increase in the openness and transparency in business and government.

Cost impacts on representative private persons or businesses:

The Board, during the noticing period, will continue to evaluate the cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The cost of timber harvest planning and operational mitigations may be significantly affected by the proposed regulation.

Effect on small business:

The proposed regulations may affect small businesses. Incremental increases in planning and operating costs could result from the proposed action.

Mandate on local agencies and school districts:

The proposed regulation does not impose a mandate on local agencies and school districts.

Costs or savings to any State agency:

Costs or savings to state timber review agencies are not anticipated.

Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500:

The proposed regulation does not impose a reimbursable cost to any local agency or school district.

Other non-discretionary cost or savings imposed upon local agencies:

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

Cost or savings in federal funding to the State:

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

Significant effect on housing costs:

The proposed regulation will not significantly affect housing costs.

Conflicts with or duplication of Federal regulations:

The proposed regulations neither conflict with, nor duplicate Federal regulations. There are no comparable Federal regulations for timber harvesting on State or private lands.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

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

Board of Forestry and Fire Protection
 Attn: Eric Huff
 Regulations Coordinator
 P.O. Box 944246
 Sacramento, CA 94244-2460
 Telephone: (916) 653-9633

The designated backup person in the event Mr. Huff is not available is Mr. George Gentry, Executive Officer of the California Board of Forestry and Fire Protection at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request. When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKE-THROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the Board web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised.

Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. DEPARTMENT OF FISH AND WILDLIFE

NOTICE IS HEREBY GIVEN that the Department of Fish and Wildlife (Department) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action. The Department invites interested persons to present statements or arguments with respect to alternatives to the regulations at the scheduled hearing or during the written comment period.

PUBLIC HEARING

The Department will hold a public hearing meeting on October 8, 2013, from 1:30 p.m. to 3:30 p.m. in the 12th floor Conference Room, 1206, at the Resources Agency Building located at 1416 9th Street, Sacramento, California. The Conference Room is wheelchair accessible. At the public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that the persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. All written comments must be received by the Department at the office below not later than 5:00 p.m. on October 8, 2013. All written comments must include the true name and mailing address of the commenter.

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

California Department of Fish and Wildlife
 Micah Carnahan, Environmental Scientist
 1416 9th Street, Room 1211B
 Sacramento, CA 95814
 Fax: (916) 653-9890
 E-mail: regulations@wildlife.ca.gov

AUTHORITY

Sections 713 and 1609, Fish and Game Code. Section 21089, Public Resources Code.

REFERENCE

Section 1609, Fish and Game Code. Sections 4629.6(c) and 21089, Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Proposed Amendments to Section 699.5 Fees for Lake and Streambed Alteration Agreements:

Existing law allows the Department to charge a fee to recover the costs it incurs to administer and enforce Fish and Game Code (FGC) Section 1600 *et seq.* Subsections 699.5(b), (c), (e), (f), (i), (j), and (k) specify fees which are subject to annual price adjustments in accordance with Fish and Game Code Section 713. These fees have not been adjusted since 2009. The Department proposes to adjust these fees by applying the annual price index for the four years 2010, 2011, 2012, and 2013 to these. The resulting increase will be approximately 9.5%.

Subsections 699.5(d) and (g) include fees which as of July 1, 2013, are no longer chargeable for timber harvest agreements by the Department pursuant to Public Resources Code Section 4629.6(c). To avoid any confusion, these fees will be deleted from the fee schedule and the following statement will be added to both subsections: "Pursuant to Public Resources Code section 4629.6, subdivision (c), no fee shall be required if the department received the notification after July 1, 2013. This includes a notification made to the department pursuant to Fish and Game Code section 1602 or section 1611."

BENEFITS OF THE PROPOSED ACTION

The Department needs to adjust for inflation the fees specified in Section 699.5 in order to recover the total costs it incurs to administer and FGC Section 1600 *et seq.* If the Department does not adjust the fees, it will experience a budget shortfall that will affect its ability to administer and enforce these sections, the purpose of which is to protect and conserve the state's fish and wildlife resources

The Department does not anticipate benefits to the protection of worker safety, the prevention of discrimination, the promotion of fairness or social equity, or to the increase in openness and transparency in business and government. The Department anticipates nonmonetary benefits to the health and welfare of California residents through the protection of aquatic and riparian habitats and the fish and wildlife resources that depend on them.

The Department anticipates benefits to the environment. It is the policy of this state to encourage the conservation and maintenance of lakes and streams, and the fish and wildlife resources that depend on aquatic and riparian habitats, for their use and enjoyment by the public. The fee increases included in this rulemaking will enable the Department to recover its costs to administer and enforce FGC Section 1600 *et seq.*

Evaluation of Incompatibility With Existing Regulations

The Department has reviewed Title 14, CCR and has determined that the proposed amendments are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies or school districts: None.

Costs or savings to any state agency: The proposed increase in fees will result in minor additional costs to state agencies conducting work subject to the Department’s permitting jurisdiction under Section 1600 *et seq.*

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

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

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

Significant effect on housing costs: None.

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

The proposed action to increase the fees in Section 699.5, Title 14, CCR, will affect a relatively small number of individuals, businesses, and agencies engaged in projects which would require lake and streambed alteration agreements with payment of the corresponding fees. The fees will increase by approximately 9.5%. The fee increase only takes into account the incremental Implicit Price Deflator over the past four years as autho-

riized by statute. Considering the small number of agreements issued over the entire state, this proposal is economically neutral to business.

Results of the Economic Impact Analysis

The results of the Economic Impact Analysis do not indicate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, the expansion of businesses in California, or benefits to the health and welfare of California residents or worker safety.

The Department anticipates benefits to the environment. It is the policy of this state to encourage the conservation and maintenance of lakes and streams, and the fish and wildlife resources that depend on aquatic and riparian habitats, for their use and enjoyment by the public. The fee increases included in this rulemaking will enable the Department to recover its costs to administer and enforce FGC Section 1600 *et seq.*

Cost impacts on a representative private person or business:

The Department does not anticipate any significant cost impact to private persons or businesses who must comply with this proposed rulemaking. The fees are presently set forth in Section 699.5 and were last updated in 2009. The increase over the past four years amounts to approximately 9.5% and will affect a relatively small number of individuals, businesses, and agencies engaged projects which would require lake and streambed alteration agreements.

Business reporting requirement: None.

Effect on small business: The Department concludes that the proposed increase in fees is likely to have minor effects on small business. The increase over the past four years amounts to approximately 9.5% and will affect a relatively small number of individuals and businesses engaged projects which would require lake and streambed alteration agreements.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, 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.

MITIGATION MEASURES REQUIRED BY REGULATORY ACTION

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

CONTACT PERSONS

Department of Fish and Wildlife
 Micah Carnahan, Environmental Scientist
 1416 9th Street, Room 1211B
 Sacramento, CA 95814
 Office: (916) 651-8797
 Fax: (916) 653-9890
 E-mail: micah.carnahan@wildlife.ca.gov

The backup contact person is:

Department of Fish and Wildlife
 Cathie Vouchilas
 1416 9th Street, Room 1260
 Sacramento, CA 95814
 Fax: (916) 653-9890
 E-mail: cathie.vouchilas@wildlife.ca.gov

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

The Department will have the entire rulemaking file available for inspection and copying at its office at 1416 9th Street, Room 1260, Sacramento. As of the publication date of this notice, the rulemaking file consists of this notice, the proposed text of the regulations, the Economic Impact Analysis, the Economic and Fiscal Impact Assessment (STD. Form 399) and the Initial Statement of Reasons. Please direct requests for copies of the rulemaking file to Micah Carnahan as indicated above.

AVAILABILITY OF CHANGED OR
 MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT
 OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Micah Carnahan as indicated above.

AVAILABILITY OF DOCUMENTS ON
 THE INTERNET

Website Access: The entire rulemaking file can be found at: www.dfg.ca.gov/news/pubnotice

**TITLE 14. DEPARTMENT OF
 RESOURCES RECYCLING AND
 RECOVERY**

- Title 14:** Natural Resources
- Division 7:** California Integrated Waste Management Board
- Chapter 3:** Minimum Standards for Solid Waste Handling and Disposal
- Article 4.1:** Waste Tire Program Definitions
- Sections:** 17225.717, 17225.821, 17225.822, and 17225.850
- Article 5.4:** Waste Tire Monofill Regulatory Requirements
- Section:** 17346
- Article 5.5:** Waste Tire Storage and Disposal Standards
- Sections:** 17350, 17351, 17352, 17353, 17354, 17355, 17356, 17357, 17358, and 17359
- Chapter 6:** Permitting of Waste Tire Facilities and Waste Tire Hauler Registration and Tire Manifests
- Article 1:** General
- Sections:** 18420 and 18420.1
- Article 2:** Review of Permit Applications
- Sections:** 18423 and 18424
- Article 3:** Permit Issuance, Renewal, Revision, Revocation, Denial, Suspension, Reinstatement, Change of Owner, Operator, and/or Address
- Sections:** 18425, 18426, 18427, and 18428
- Article 3.5:** Enforcement Criteria for Waste Tire Facilities
- Section:** 18429
- Article 4:** Permit Application
- Sections:** 18431, 18431.1, 18431.2, 18431.3, 18432, and 18433

Article 8.5: Waste Tire Hauler Registration and Manifesting Requirements for Used and Waste Tire Haulers, Retreaders, Used and Waste Tire Generators, and Used and Waste Tire End-Use Facilities

Sections: 18450, 18456.4, 18459, 18460.1.1, 18460.2, 18461, and 18462

PROPOSED REGULATORY ACTION

The Department of Resources Recycling and Recovery (Department) proposes to add, amend, or repeal Title 14 of the California Code of Regulations sections cited above. The proposed rulemaking is intended to:

- Incorporate applicable 2010 California Fire Code (2010 CFC) standards into Article 5.5., Waste Tire Storage and Disposal Standards, of Title 14 of the California Code of Regulations.
- Add three (3), delete two (2), and amend twenty-six (26) definitions.
- Specify requirements for a waste tire collection location.
- Clarify Public Resources Code (PRC) section 42805.7 definition of tire derived product.
- Simplify waste tire facility permit reapplication procedures.
- Establish:
 - A notification requirement for an excluded waste tire facility,
 - An application requirement for an exempt waste tire facility, and
 - Recordkeeping requirements for any person handling waste or used tires.
- Remove requirements that the Department issue a "Cleanup and Abatement Order" before issuing a waste tire facility penalty, and expand and clarify the Department waste tire facility penalty schedule.
- Specify manifest requirements for delivery of waste tires to a port terminal.
- Amend references to the Department for conformity with PRC section 40400, that created the Department, and
- Correct spelling, punctuation, grammatical and typographical errors in the sections cited above.

WRITTEN COMMENT PERIOD

Any interested person or authorized representative may submit written comments relevant to the proposed regulations to the Department. **The written comment**

period for this rulemaking ends at 5:00 p.m. on October 15, 2013. The Department will also accept oral and written comments during the public hearing described below.

Please submit written comments to:

State of California
Department of Resources Recycling and Recovery
Waste Evaluation and Enforcement Branch,
Attn: Paulino Luna (MS 10A-17)
P.O. Box 4025
Sacramento CA 95812-4025
e-mail: WasteTireRulemaking@CalRecycle.ca.gov
Fax: (916) 319-7761

PUBLIC HEARING

A public hearing to receive comments on the proposed regulations is scheduled for October 16, 2013. The hearing will be held at:

Cal/EPA Building, Byron Sher Auditorium
1001 "I" Street, Second Floor
Sacramento, California 95814

The hearing will begin at 1:00 p.m. on October 16, 2013, and conclude after the public gives all testimony. The Department requests that persons who make oral comments at the hearing submit written copies of their testimony at the hearing. The Byron Sher Auditorium is wheelchair accessible.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The PRC (commencing with Section 42800, Article 1, Chapter 16, Part 3, Division 30) and related regulations authorize the Department to regulate hauling, storage and disposal of waste tires. Waste tire storage and disposal requirements, and waste tire hauler registration and manifest requirements, are necessary to protect the public health, safety and the environment from improper waste tire management practices.

Waste Tire Facility Enforcement

From April 2010 through March 2011, the Department initiated a rulemaking by requesting public comment on proposed waste tire facility enforcement regulations. The Department conducted three 30-day informal public comment periods, including public workshops in May 2010, July 2010 and February 2011. The initial focus was to:

- Expand the Department's streamlined penalty program to include waste tire facilities, and
- Clarify enforcement penalty criteria for waste tire facilities.

Beginning with the third 30-day informal public comment period, and based on informal public comment, the Department added proposed penalties for excluded and exempt waste tire facilities.

Waste Tire Storage, Disposal, and Permitting

From July 2010 through July 2011, the Department initiated a separate rulemaking by requesting public comment on proposed Waste Tire Storage, Disposal, and Permitting regulations. It conducted three 30-day informal public comment periods, including public workshops in July 2010, February 2011 and June 2011. The initial focus was revision of 14 CCR section 17354, Storage of Waste Tires Outdoors, and 14 CCR section 17356, Indoor Storage, for consistency with changes applicable to waste tires in the 2010 edition of the CFC which took effect January 1, 2011. CFC changes are in CFC Chapter 23, High-Piled Combustible Storage, and Chapter 25, Tire Rebuilding and Tire Storage. Beginning with the second 30-day informal public comment period, and based on informal public comment, the Department added proposed regulation changes to:

- Waste tire facility permit requirements to allow for 5-year permit reviews, and
- Manifest Form requirements applicable to exempt common carriers who deliver waste tires to port terminals.

Waste Tire Storage/Permit and Penalty Criteria

To maximize Department resources, and because the above rulemakings are closely related, in June 2011 the Department decided to notice these informal rulemakings as a single regulations change package, *Waste Tire Storage, Permit, and Penalty Criteria Regulations Revisions*, with the objectives described below.

- Current regulations concerning storage of waste tires indoors or outdoors contain outdated CFC sections and borrow from the 1989 National Fire Protection Association (NFPA) publication, *The Standard for Storage of Rubber Tires*. The proposed regulations eliminate regulatory duplication by deferring to the CFC, and defining “Indoor or Indoors” storage. These proposed regulations also delete references to the 1989 NFPA publication.
- Current waste tire program definitions and State Minimum Standards (SMS) for Solid Waste Handling and Disposal do not regulate exempt or excluded waste tire facilities in a manner consistent with statute. The proposed regulations contain amended and new definitions and SMS revisions intended to provide clarity and consistency with regard to the Department’s statutory/regulatory purview over permitted,

excluded or exempt waste tire facilities, and beneficial reuse projects.

- Current regulations require operators to reapply for a major or minor waste tire facility permit every five years. The proposed regulations modify this periodic permit reapplication process by applicant waste tire facility operators to file a permit revision application that only identifies proposed permit changes, as opposed to filing a complete permit application.
- Current regulations require the Department to issue a “Cleanup and Abatement Order” before imposing penalties against a person who violates a waste tire facility statute or regulation. The proposed regulations delete this requirement and allow the Department to propose a streamlined penalty enforcement action to a person who violates waste tire facility law. The proposed regulation changes will allow the Department to settle waste tire facility enforcement cases through a cost-effective, voluntary, and administrative process.
- Current regulations do not specify California Uniform Waste and Used Tire Manifest system requirements for an exempt common carrier or a registered tire hauler who delivers waste tires to a port terminal. The proposed regulations authorize an exempt common carrier or a registered waste tire hauler to provide a waste tire generator, rather than a port terminal operator, with a copy of the completed Manifest Form and other load-specific documentation.
- Proposed regulations address changes mandated by Senate Bill 63 (Statutes of 2009, commencing with PRC Section 40400 of Article 1, Chapter 3, Part 1, Division 30) that created the Department, and correct spelling, punctuation, grammatical and typographical errors in current waste tire regulations.

Policy Statement Overview

The passage of SB 63 (Stats.2009 c.21 section 5) eliminated the California Integrated Waste Management Board (also known as CIWMB, IWMB or Board) and transferred the regulatory and programmatic functions to the Department of Resources Recycling and Recovery (Department) effective January 1, 2010. The Department is responsible for implementing State laws related to handling, hauling, storage and disposal of waste and used tires in a manner that protects public health, safety, and the environment. The Department also recognizes beneficial reuse projects as part of a comprehensive approach aimed at solving the problem posed by waste tire storage by administering a tire re-

cycling program that promotes and develops alternatives to the landfill disposal of waste tires pursuant to PRC section 42871.

Anticipated Benefits from this Regulatory Action/
Determination of Inconsistency or Incompatibility

The benefits associated with this rulemaking are the result of goals developed by the Department based on its broad statutory authority. The Department has worked to streamline its waste tire permit processes, equitably enforce California waste tire law, and modify California waste tire regulations to address statewide and global waste tire industry changes.

California residents will have improved protection of public health, safety and the environment. Businesses with waste tires will have: more equitable waste tire business competition within California, reduced regulatory duplication, more complete and better organized waste tire facility penalty criteria, and a streamlined penalty process.

As required by Government Code section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing statute or regulations.

PLAIN ENGLISH REQUIREMENTS

The Department prepared these proposed regulations pursuant to the standard of clarity provided in Government Code (GC) section 11349 and the plain English requirements of GC sections 11342.580 and 11346.2(a)(1). The Department considers the proposed regulations non-technical and easily understood by persons who may use them.

AUTHORITY AND REFERENCES

PRC sections 40052, 40400, 40401, 40502, 42820, 42830, 42966, 43020, and 43021 provide authority for the proposed regulations. PRC sections 21068, 21082.2, 40052, 40110, 40400, 40401, 41700, 42800, 42806.5, 42808, 42820, 42821, 42822, 42825, 42830, 42831, 42832, 42833, 42835, 42840, 42841, 42850, 42843, 42852, 42950, 42951, 42952, 42953, 42954, 42955, 42956, 42958, 42961.5, 42962, 43020, 43021, and 44014 provide reference for the proposed regulations. Existing regulations also reference GC sections 15376, 65940, and 65941, and 14 CCR California Environmental Quality Act (CEQA) Guidelines, sections 15002, 15064, and 15382. The Department proposes to reference CFC sections 202, 2501 through 2508, 2301, 2305, and 2509.

FEDERAL LAW OR REGULATIONS MANDATE

There are no federal laws or regulations that contain comparable waste tire facility storage and permitting requirements. The Department derives waste tire permit, inspection and enforcement regulations only from State law. Therefore, no impacts to federal funding sources, laws, or regulations should result from the proposed regulations.

MANDATE ON STATE AGENCIES, LOCAL
AGENCIES, OR SCHOOL DISTRICTS

The Department has determined that adoption of the proposed regulations will not impose a mandate on local agencies or school districts.

Fiscal Effect on Local Government

Additional local government expenditures in the current and two subsequent State Fiscal Years (SFYs) would not be reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because they are not the result of a mandate. Local agency participation as a WT facility is voluntary. The proposed regulations revisions would impose an annual recordkeeping, but not reporting, requirement on 300 local government WT facilities. Given the limited voluntary survey responses by local government agencies, the Department opted to use the business cost data to ensure local government costs are not underestimated. The Department estimates a local government WT facility average SFY cost would be the same as the Department's estimated annual cost for a private sector WT facility: \$1,274. The estimated expenditures for the second half of SFY 2013-14 through SFY 2015-16 would be \$0.95M.

Based on survey results, it is anticipated that local governments will be able to absorb these additional costs within their existing budgets and resources.

Fiscal Effect on State Government

State government would have additional expenditures of approximately \$0.065M in the current SFY and \$0.130M in each of the two subsequent SFYs.

The Department would absorb an additional cost of approximately \$0.005M for SFY 2013-14, \$0.010 for SFY 2014-15, and \$0.010 for SFY 2015-16 for mailing and serving enforcement actions.

The proposed regulations revisions would impose an annual recordkeeping, but not reporting, requirement on some State government agencies. Given the limited voluntary survey responses by 92 State government WT facilities, the Department opted to use business cost data to ensure State government costs are not underestimated. The Department estimates a State government WT facility average SFY cost would be the same as the

Department's estimated annual cost for a private sector WT facility: \$1,274. The estimated expenditures for the second half of SFY 2013–14 through SFY 2015–16 would be \$0.30M.

Based on survey results, it is anticipated that State agencies will be able to absorb these additional costs within their existing budgets and resources.

There are no other nondiscretionary costs or savings imposed on local agencies. There are no other costs or savings in federal funding to the state.

FINDING ON NECESSITY OF REPORTS

The proposed regulations do not require a report.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed regulations would not have a significant effect on housing costs.

EFFECT ON BUSINESSES

Pursuant to GC Section 11346.5(a)(8), the Department has made an initial determination that the proposed regulations would not have a significant, state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

Pursuant to Title 1, Section 4, CCR, the Department has made an initial determination that the proposed regulations will not have an effect on small business, including the ability of California small businesses to compete with businesses in other states. Based on results the Department received from surveyed waste tire facilities, these waste tire facilities did not indicate that the proposed regulations revisions would impact the ability of California businesses to compete with businesses in other states to produce goods or services within California. The proposed regulations revisions are intended to create more equitable waste tire business competition within California.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Department analyzed the economic impact of the proposed action. The Department estimates the five-year average annual cost of proposed section 17357 recordkeeping requirements is:

- \$2 for each of 2,967 agricultural businesses
 - \$1,274 for each of 5,067 non-agricultural businesses, and
 - \$0 for each California resident to acquire products or services provided by the impacted businesses.
- The Department also estimated business costs/savings of proposed section 18426, 18427, 18431.1, and 18431.2 waste tire storage permit regulations. The Department estimates the:
- Five-year annual average permit review/revision savings to each of 36 waste tire facilities with a minor or major permit is \$341
 - One-time permit exemption application cost to each of 750 agricultural businesses with more than 499 waste tires is \$298
 - One-time permit exemption application cost to each of 71 tire retreaders, 5 cement plants, and zero beneficial reuse projects is \$485, and
 - One-time permit exclusion notification cost to each of 1,236 auto dismantlers, 3,738 tire dealers and other waste tire-related businesses, and 17 waste tire collection locations is \$485.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Effect on Creation or Elimination of Jobs, Existing, or New Businesses in the State of California

Surveyed businesses with waste tires indicated that there would be minimal cost impacts for each business, and therefore no creation or elimination of jobs in California. There would be no expansion of current California businesses as a result of these regulations.

The primary annual economic impact would be an estimated additional 65 hours per year of recordkeeping by a non-agricultural business with waste tires. Based on December 2011 through April 2012 Department survey results, businesses said this would not affect the creation or elimination of businesses within California.

Benefits to the Health and Welfare of California Residents, Worker Safety, the State Environment

The benefits are the result of goals developed by the Department based on its broad statutory authority. The Department has worked to streamline its waste tire permit processes, equitably enforce California waste tire law, and modify California waste tire regulations to address statewide and global waste tire industry changes.

California residents will have improved protection of public health, safety, and the environment. Businesses with waste tires will have: more equitable waste tire business competition within California, reduced regulatory duplication, more complete and better organized waste tire facility penalty criteria, and a streamlined penalty process.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action, or the substance of proposed *Modifications to Existing Waste Tire Storage/Permit Criteria* (excluding Division 7, Chapter 6, Article 3.5, Enforcement Criteria for Waste Tire Facilities), may be directed to:

Paulino Luna
Department of Resources Recycling and Recovery
Waste Evaluation and Enforcement Branch
(MS 10A-17)
P.O. Box 4025
Sacramento CA 95812-4025

e-mail: Paulino.Luna@CalRecycle.ca.gov
Fax: (916) 341-3884
Phone: (916) 341-6412

The back-up contact person to whom inquiries concerning the proposed administrative action, or the substance of proposed *Modifications to Existing Waste Tire Storage/Permit Criteria* (excluding Division 7, Chapter 6, Article 3.5, Enforcement Criteria for Waste Tire Facilities), may be directed is:

Nicholas Cavagnaro
Department of Resources Recycling and Recovery
Waste Evaluation and Enforcement Branch
(MS 10A-17)
P.O. Box 4025
Sacramento CA 95812-4025

e-mail: Nicholas.Cavagnaro@CalRecycle.ca.gov
Fax: (916) 341-3884
Phone: (916) 324-3756

Inquiries concerning the substance of Division 7, Chapter 6, Article 3.5, Enforcement Criteria for Waste Tire Facilities, may be directed to:

Heather Hunt, Senior Staff Counsel
Department of Resources Recycling and Recovery
Legal Office (MS 24B)
P.O. Box 4025
Sacramento CA 95812-4025

e-mail: Heather.Hunt@CalRecycle.ca.gov
Fax: (916) 319-7677
Phone: (916) 341-6068

The back-up contact person to whom inquiries concerning the substance of Division 7, Chapter 6, Article 3.5, Enforcement Criteria for Waste Tire Facilities, may be directed is:

Martha Perez, Staff Counsel
Department of Resources Recycling and Recovery
Legal Office (MS 24B)
P.O. Box 4025
Sacramento CA 95812-4025

e-mail: Martha.Perez@CalRecycle.ca.gov
Fax: (916) 319-7579
Phone: (916) 341-6494

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file, and all information upon which the proposed regulations changes are based, available for inspection and copying throughout the rulemaking process at the above street address. As of the date the Office of Administrative Law publishes this Notice, the rulemaking file will consist of this Notice, the proposed text of the regulations, the initial statement of reasons, the Economic and Fiscal Impact Statement, and the Economic Impact Assessment required by GC section 11346.3(b). To obtain copies, contact Paulino Luna or Nicholas Cavagnaro at the address, e-mail, phone, or Fax numbers listed above. For more timely access to the proposed text of the regulations and the initial statement of reasons, and in the interest of waste prevention, interested persons are encouraged to visit the Department Proposed Regulations (Rulemaking) webpage at: <http://www.calrecycle.ca.gov/Laws/Rulemaking/>. From this webpage, select the "Waste Tire Storage, Permit, and Penalty Criteria" link from the topic list. The final statement of reasons will be available at a subsequent date on this same web page and from the contact persons listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department may adopt the proposed regulations changes as described in this Notice. If the Department

makes modifications sufficiently related to the proposed text, it will make the modified text — with modifications clearly indicated — available to the public for at least 15 days before it adopts the regulations as revised. Requests for modified text may be directed to each contact person named above. The Department will transmit modified text to all persons:

- Who testify at a public hearing, if one is held
- Who submit written comments at a public hearing
- Whose comments are received during the comment period, or
- Who request notification of the availability of such modified text.

The Department will accept written comments on modified regulations for 15 days after the date the Department makes the modified regulations available.

TITLE 16. VETERINARY MEDICAL BOARD

NOTICE IS HEREBY GIVEN that the Veterinary Medical Board (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 Donner Room at 2005 Evergreen Street, Sacramento, California at 10 a.m. on Tuesday, October 8, 2013.

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 no later than 5:00 p.m. on Monday, October 7, 2013, 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 authority vested by Business and Professions Code Section 4808 and Vehicle Code (VC) Section 5156 to implement, interpret or make specific VC Section 5156 and 5157, the Board is considering changes to Division 20 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

BPC section 4808 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Veterinarian Medicine Practice Act.

This regulatory proposal adopt CCR sections 2090, 2090.1, 2091, 2091.1, 2092, 2092.1, 2093, 2094, 2095, 2095.1, 2095.2, and 2095.3.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The California Spay and Neuter License Plate Fund Incorporated (Fund) established a need for no and low cost animal sterilization due to the lack of access to affordable animal sterilization services as well as the increasing number of animal euthanasia. In accordance with Vehicle Code, a state agency may sponsor a specialized license plate program.

The regulatory action will define the Fund's relationship as the administrator of the license plate program and the Board as the sponsoring state agency. The Board, as the sponsoring state agency, will provide oversight authority and is able to ensure funds raised by the specialized license plate program are allocated for their intended purpose.

C. Consistency and Compatibility with Existing State Regulations

The Board has evaluated this regulatory proposal and it is not inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

The proposed regulation 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. VC Section 5060 establishes the Board may sponsor a DMV specialized license plate program at the request of a tax-exempt organization. The proposed language specifies

certain eligibility, expenditure and reporting requirements for both the Fund and grantees.

Reporting Requirement:

The Board finds that it is necessary for the health, safety, or welfare of the people of this state that the proposed regulation which requires a report apply to businesses.

The proposed regulation requirements impose grantees, who may be a business, provide receipts and records of sterilization services and that the grantee will maintain its records as open for inspection or audit in order to ensure grant funds are expended for their intended purpose. The Board anticipates this reporting requirement will not significantly impact businesses as individual veterinarians are already obligated to keep records for any act requiring a license, including animal sterilization procedures, in accordance with the Veterinary Medicine Practice Act.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The proposed regulation will not have a significant adverse economic impact on small businesses. VC Section 5060 establishes the Board may sponsor a DMV specialized license plate program at the request of a tax-exempt organization.

Grantees of the program, which may be a small business, would be required to keep records relative to animal sterilizations for the purpose of reporting to the Fund.

**RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS**

Impact on Jobs/Businesses:

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

Benefits of Regulation:

The Fund, with the Board's oversight as the sponsoring entity, will provide no and low cost animal sterilization due to the lack of access to affordable animal

sterilization services as well as the increasing number of animal euthanasia.

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 2005 Evergreen Street, 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: Ethan Mathes
 Address: Veterinary Medical Board
 2005 Evergreen Street, Suite 2250
 Sacramento, CA 95815
 Telephone No.: 916-263-1598
 Fax No.: 916-263-2621
 E-Mail Address: ethan.mathes@dca.ca.gov

The backup contact person is:

Name: Susan Geranen, Executive Officer
 Address: same as above
 Telephone No.: 916-263-2610
 Fax No.: 916-263-2621
 E-Mail Address: vmb@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.vmb.ca.gov.

TITLE 20. CALIFORNIA ENERGY COMMISSION

Hearing for Consideration and Possible Adoption of Amendments to Regulations Implementing the Geothermal Grant and Loan Program

Hearing Date and Time — Gov. Code section 11346.5, subd. (a)(1)

The Energy Commission will conduct a hearing to consider adoption of amendments to the Geothermal Grant and Loan Program regulations, located in sections 1660-1665 and Appendix A of Title 20, California Code of Regulations. The Energy Commission will conduct the hearing during its regularly scheduled business meeting on:

October 9, 2013

10:00 a.m.

CALIFORNIA ENERGY COMMISSION
 1516 Ninth Street
 1st Floor, Hearing Room A
 Sacramento, California
 Wheelchair Accessible

Remote Access Available by Computer or Phone via WebEx™

(Link to instructions below)

In addition to appearing in person, participants may choose to participate remotely. To participate by telephone, please call toll free 1-888-823-5065 on October 9, 2013 after 10:01 a.m. (Pacific Time). The passcode for the meeting is "Business Meeting." If you plan to speak on a specific item, please give the operator the

subject matter of "Geothermal Grant and Loan Program rulemaking."

In addition, the Business Meeting is broadcast via WebEx, the Energy Commission's on-line meeting service. For the specific link to the October 9, 2013 Business Meeting, and to see the agenda and background materials, please go to:

www.energy.ca.gov/business_meetings/.

Public Comment — Gov. Code section 11345.6, subd. (a)(15)

The Energy Commission will accept public comment on the proposed amendments until the item has been heard at the October 9, 2013 hearing. Written comments should be submitted to the Dockets Unit. Paper copies will be accepted, although the Energy Commission encourages comments to be submitted by e-mail. Please include your name and any organization name in comments you file concerning these proposed amendments. Electronic comments should be in a downloadable attachment, such as Microsoft® Word (.doc) or Adobe® Acrobat® (.pdf). Please write "Geothermal Grant and Loan Program Rulemaking, Docket No. 12-OIR-02" in the subject line of the e-mail, and send to docket@energy.ca.gov. If you prefer, you may send a paper copy of your comments to:

California Energy Commission
 Dockets Office, MS-4
 Re: Docket No. 12-OIR-02
 1516 Ninth Street
 Sacramento, CA 95814-5512

The Energy Commission will also accept oral comments during the hearing on October 9, 2013. Comments may be limited to three minutes per speaker. All comments will become part of the public record of this proceeding. Oral comments will be available in the hearing transcript and recording on the Energy Commission website for the October 9, 2013 business meeting. Additionally, written comments may be posted to the Energy Commission's website for the proceeding.

Public Adviser and Other Commission Contacts

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission proceedings. If you want information on how to participate in this forum, please contact the Public Adviser's Office at PublicAdviser@energy.ca.gov or (916) 654-4489 or toll free at (800) 822-6228.

If you have a disability and require assistance to participate, please contact Lou Quiroz at Lou.Quiroz@energy.ca.gov or (916) 654-5146 at least five days in advance of the hearing.

Media inquiries should be sent to the Media and Public Communications Office at mediaoffice@energy.ca.gov or (916) 654-4989.

If you have questions on the subject matter of this proceeding, please contact Cheryl Closson, Project Manager, at Cheryl.Closson@energy.ca.gov, (916) 327-2312 or Rizaldo Aldas, Team Lead, Renewable Energy Research and Development, Rizaldo.Aldas@energy.ca.gov, (916) 327-1417.

If you have legal questions about this proceeding, please contact Robin Mayer at Robin.Mayer@energy.ca.gov or (916) 651-2921.

Availability of Proposed Amendments

As noted above, the California Energy Commission is proposing to amend the regulations implementing the Geothermal Grant and Loan Program. (Cal. Code of Regulations, tit. 20, §§ 1660-1665, appen. A.) The Energy Commission invites the public to review and comment on the proposed amendments. The proposed amendments and other supporting documents are available on the Energy Commission's website at http://energy.ca.gov/geothermal/grda_rulemaking/.

The public may also request copies of the proposed amendments and other supporting documents by contacting Cheryl Closson, Project Manager, at Cheryl.Closson@energy.ca.gov, (916) 327-2312 or Rizaldo Aldas, Team Lead, Renewable Energy Research and Development, Rizaldo.Aldas@energy.ca.gov, (916) 327-1417.

Documents in the rulemaking file are also available from the Energy Commission's Dockets Office. For copies please contact:

CALIFORNIA ENERGY COMMISSION
Dockets Office
1516 Ninth Street, MS-4
Sacramento, California 95814-5512
(916) 654-5076
docket@energy.ca.gov

Background

The California Energy Commission's Geothermal Grant and Loan Program was created by Assembly Bill 1905 (Stats.1980, c. 139, p. 330, § 1) and has been in operation since 1981. During the first decade, the program promoted geothermal energy development in the state by extending financial and technical assistance to public entities to support direct uses, planning, and mitigation projects. In 1992, the program was expanded to extend financial assistance to private entities as well as local jurisdictions, for a wide variety of geothermal research, development, and commercialization projects. The mission of the program is to promote research and development of California's vast geothermal energy resources. The program funding comes from payments made to the State by the federal government for a portion of the royalty and lease revenues generated by geo-

thermal development on federal lands in California. Typically, the Energy Commission makes program awards roughly every two to three years through competitive project solicitations called Program Opportunity Notices.

The regulations implementing the Energy Commissions Grant and Loan Program are in the California Code of Regulations, title 20, sections 1660 through 1665 and Appendix A. The regulations have not been amended since their adoption in 1985. These amendments have four objectives. The primary purpose of the amendments is to simplify both the procedures for applicants seeking to obtain loans and grants under the program and the procedures for the Energy Commission's review of applications and awarding of loans and grants. The proposed amendments would also clarify several statutory requirements by identifying what the Energy Commission will accept as documentation for local approval of grants or loans awarded to private entities, and addressing the information needed for the Energy Commission to be able to determine that a decision approving an award for the project is in compliance with CEQA. In addition, the amendments would delete provisions that are outdated due to changes in statute or Energy Commission practice. Finally, the amendments make non-substantive stylistic and grammatical changes to clarify the regulations.

Authority and Reference — Gov. Code section 11346.5, subd. (a)(2)

The Energy Commission takes this action, under the authority of its general rulemaking powers provided by Public Resources Code, sections 25213 and 25218, subdivision (e).

The proposed amendments implement, interpret, and make specific Public Resources Code, section 3800 et seq. (state allocation of geothermal revenues) and section 25216, subdivision (c) (Energy Commission to carry out research and development into alternative sources of energy).

Informative Digest — Gov. Code section 11346.5, subd. (a)(3)

Per Government Code, section 11346.5, subdivision (a)(3), the Energy Commission here supplies an informative digest of laws related to the proposed amendments.

Summary of existing directly related law and effect of the proposed action (Govt. Code, section 11346.5, subd. (a)(3)(A)).

Existing law provides for the allocation of revenues distributed to the state pursuant to section 35 of the Mineral Lands Leasing Act of 1920, as amended (Pub. Resources Code § 3800 et seq.). Specifically, Public Resources Code section 3820 establishes the Geothermal Resources and Development Account in the state's gen-

eral fund. (Pub. Resources Code, § 3820.) Thirty percent of the funds in the account are allocated to the Energy Commission’s Geothermal Grant and Loan Program, the subject of the regulations and the proposed amendments. (Pub. Resources Code, § 3822 and generally, § 3820 et seq.) The Energy Commission uses the funds to provide loans and grants to local jurisdictions and private entities for research and development of geothermal energy. Local jurisdictions and private entities applying for funds may devote a project to purposes related to planning for, assessing, researching or developing geothermal resources or to mitigation of the effects of development. (See Pub. Resources Code, § 3823 [acceptable purposes for spending grants or loans].) Existing regulations establish requirements for local jurisdictions, the Commission, staff, and others to follow during the application and review process. (Cal. Code of Regs., tit. 20, §§ 1660–1665, appen. A.) However, Public Resources Code 3822 has been amended three times since the adoption of the regulations, and consequently the existing regulations do not accurately reflect all of the current statutory provisions and requirements.

The Federal Oil and Gas Royalty Management Act of 1982 and the Geothermal Steam Act of 1970 provide the basis for the funding for the grant and loan program. (See 30 U.S.C. § 191.) Section 191 requires that the United States pay half the funds from sales, bonuses, rentals, and royalties from geothermal revenues produced on federally–owned land to the states in which the leased lands are located. California may use the funds as the state legislature may direct, giving priority to those subdivisions of the state that are socially or economically impacted by geothermal resources development, primarily for planning, construction and maintenance of public facilities, and provision of public service. (*Ibid.*) These requirements are reflected in the statutory provisions governing the Geothermal Grant and Loan Program.

The proposed amendments would accomplish four objectives:

- 1) Simplify the application and review process —
 - Reduce the steps in the application process from two to one by using a single application and review process rather than a preapplication and a final application process.
 - Eliminate use of a Technical Advisory Committee for review and scoring of applications, while still allowing the Energy Commission the discretion to invite other governmental entities to assist in application review and scoring.

- Delete contingent awards, which allow a loan to become a grant under certain circumstances.
 - Delete the requirement that the Energy Commission make awards in three project categories.
 - Reduce the number of scoring criteria and assign criteria points to total 100 rather than 120.
- 2) Provide guidance regarding several statutory requirements—
 - Describe how private entity applicants may demonstrate compliance with the statutory requirement contained in Public Resources Code section 3822, subdivision (g)(3) that awards to private entity applicants be approved by the local city, county or Indian reservation within which the project is to be located.
 - Ensure that the Energy Commission has sufficient data and analysis from an application to make any determinations required by CEQA.
 - 3) Update provisions to reflect statutory changes and changes in Energy Commission practice—
 - Add references to private entities as applicants.
 - Delete the existing repayment term cap of six years on loans, which is in conflict with current statutory provisions.
 - Delete the existing limit on interest rates, which is in conflict with current statutory provisions.
 - Delete references to an Energy Commission Committee that is no longer used for overseeing the Geothermal Grant and Loan Program.
 - Add reference to electronic notification procedures to program notice mailing requirements to reflect the Energy Commission’s use of electronic notification.
 - 4) Provide stylistic and grammatical changes to improve clarity—
 - Clarify provisions to remove vague and redundant terms, such as deleting “eligible activity” and defining “project” in its place; deleting “funding cycle”; consolidating references to “awards” and “funds” to “awards” only; changing “eligible applicant” to “applicant.”

Comparable federal law — Gov. Code section 11346.5, subd. (a)(3)(B)

The proposed amendments do not differ substantially from an existing comparable federal regulation or statute because there is no comparable federal regulation or statute. Although the Geothermal Grant and Loan Program receives funding due to the provisions in federal law identified above, it is state law that establishes the

program that is being implemented by these regulations.

Policy Statement Overview — Gov. Code section 11346.5, subd. (a)(3)(C)

Objectives. Generally, the objectives of the Geothermal Grant and Loan Program are to reduce dependence on fossil fuels and stimulate the state's economy through the development of geothermal resources; mitigate the adverse social, economic, and environmental impacts caused by geothermal development; provide financial assistance to cities, counties, and districts to offset the costs of public services and facilities required by the development of geothermal resources in their jurisdictions; and to maintain the productivity of renewable resources. (Pub. Resources Code, § 3800.)

The broad objectives of the regulations are to meet these statutory goals as efficiently and fairly as possible. Because of statutory changes, changes in Energy Commission practice, and experience gained in implementing the program, the Energy Commission has determined that the program can be improved by amending the regulations. These amendments will streamline the application and review procedures, clarify several statutory requirements, delete provisions that are outdated due to changes in statute or Energy Commission practice, and make non-substantive stylistic and grammatical changes to improve clarity.

Specific Benefits. The specific benefits anticipated by the proposed amendments include a simplification of the application process for applicants and the review and award process administered by the Energy Commission. This will occur by reducing the steps in the application process from two to one, eliminating the use of the Technical Advisory Committee, eliminating the use of contingent awards, deleting the requirement that the Energy Commission make awards in three project categories, reduce the number of scoring criteria, and assign criteria points to total 100 rather than 120. The more efficient process will provide cost savings for private entity applicants, local agency applicants, and the Energy Commission in its administration of the program.

In addition, the proposed amendments will provide guidance that is currently lacking by describing how private entity applicants can comply with the statutory requirement contained in Public Resources Code section 3822, subdivision (g)(3) that awards to private entity applicants be approved by the city, county, or Indian reservation within which the project is to be located, and by identifying the documentation needed to ensure that the Energy Commission's decision approving an award for the project is in compliance with CEQA.

The amendments would also conform the regulations to specific statutory requirements and current Energy Commission practice by adding references to private

entities as applicants, deleting the existing repayment term cap of six years on loans, deleting the existing limit on interest rates, and deleting references to an Energy Commission Committee that is no longer used for overseeing the Geothermal Grant and Loan Program.

Finally, the proposed amendments will have the benefit of clarifying the regulations through non-substantive stylistic and grammatical changes.

The Energy Commission has determined that simplifying the application and review process, removing the project category funding limitations, providing guidance for statutory requirements, conforming the regulations to current law and Energy Commission practice, and making clarifying grammatical and stylistic changes may result in a more efficient program and clearer directions to applicants which in turn should result in projects being deployed more quickly, furthering the statutory goals of reducing dependence on fossil fuels and stimulating the state's economy through the development of geothermal resources, as well as mitigating the adverse social, economic, and environmental impacts caused by geothermal development. (Pub. Resources Code, § 3800, subds. (a)–(c).)

The Energy Commission believes that the increased efficiencies and clarity provided by the proposed amendments will provide some nonmonetary benefits, such as reducing the time from program application to project award. However, it does not anticipate nonmonetary benefits such as increased protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, or an increase in openness and transparency in business and government.

Existing State Regulations — Gov. Code section 11346.5, subd. (a)(3)(D)

The proposed amendments are not inconsistent or incompatible with existing state regulations. There are no other state regulations specifically governing the Geothermal Grant and Loan Program. The proposed amendments do reference the California Environmental Quality Act or CEQA (Pub. Resources Code section 21100 et seq.) by requiring in an application analyses, assessments, or other documents sufficient to support the Energy Commission's determination that a decision approving an award for the project is in compliance with CEQA. These latter amendments complement CEQA's guidelines and are neither inconsistent nor incompatible with them.

Documents Incorporated by Reference — Cal. Code Regs., tit. 1, section 20, subd. (c)(3)

The proposed amendments do not incorporate any documents by reference.

Mandated by Federal Law or Regulations — Gov. Code section 11346.2, sub. (c), 11346.9

The proposed amendments are not mandated by federal law or regulations nor are they identical to a previously adopted or amended federal regulation.

Other Matters — Gov. Code section 11346.5, subd. (a)(4)

No other matters prescribed by statute are applicable to the Energy Commission or to any specific regulation or class of regulations considered in these amendments.

Local Mandate — Gov. Code section 1.1346.5, subd. (a)(5)

The proposed amendments do not impose a mandate on local agencies, because they do not require local agencies to undertake a new program or increase the level of service in an existing program. (Cal. Const., Art. XIII B, § 6, Gov. Code, § 17514, State Administrative Manual, § 6606.) The proposed amendments do not affect school districts.

As noted above, most of the amendments consist of the deletion of existing requirements, resulting in a simpler and shorter application and review process. Other amendments making grammatical and stylistic changes are non-substantive in nature. Finally, updating the regulations to reflect changes in statute and Energy Commission practice will have no effect on local agencies.

There are two amendments that change — as opposed to eliminate — application requirements that could affect local agencies. These amendments provide guidance to applicants regarding several statutory requirements. First, the existing regulations imply that CEQA compliance has occurred prior to submittal of an application. This may be the case for projects with activities requiring permits or other authorization, where the local jurisdiction or other agency is the Lead Agency under CEQA and the Energy Commission is a Responsible Agency. In such a case, the Energy Commission will consider the CEQA documents and the determination made by the Lead Agency, and then make its own determination as required by CEQA, when approving an award for a project. However, for projects where no permit or other authorization is required, the Energy Commission is the Lead Agency and it will need to conduct any necessary CEQA analysis and determination prior to approving an award. The existing regulations do not address the information needs of the Energy Commission in the latter circumstance. These amendments address the Energy Commission's CEQA information needs under both circumstances, but do not change the CEQA obligations currently applicable to local jurisdictions. Where the local jurisdiction is the Lead Agency, it will continue to be required to prepare a CEQA determination and associated documentation. Where the local jurisdiction is the applicant but not the

Lead Agency, it will still be required — as are all applicants — to submit the information needed to enable the Lead Agency, be it another agency or the Energy Commission, to prepare the CEQA determination and documentation. Therefore, the proposed amendments remove a potential incompatibility with CEQA, but do not require local agencies to undertake any additional work or analyses. Hence, this modification does not create a local mandate.

The second amendment provides guidance to private entity applicants regarding the statutory requirement to obtain approval for the grant or loan from the city, county, or Indian reservation where the project is to be located. Local agency approval is an existing requirement of the statute (Pub. Resources Code, section 3822, subd. (g)(3)), but the existing regulations do not address how the applicant or the Energy Commission can address the requirement. Therefore, the proposed amendments: 1) require private entity applicants to describe how, if awarded a grant or loan, they will obtain approval for the grant or loan from a representative of the city, county, or Indian reservation where the project is to be located, in accordance with Public Resources Code section 3822(g)(3); 2) identify what written documentation the Energy Commission will accept from private entity applicants who must obtain approval of the award from a representative of the local city, county, or Indian reservation within which the project will be located, and 3) state that the Energy Commission will not disburse funds for an award until evidence of such approval is provided. The amendments both make the applicants aware of the statutory requirement as part of the application process, and specify that the approval must be provided in writing to the Energy Commission before award funds will be disbursed. Requiring written documentation, in the form of an e-mail or other written evidence of the approval, is necessary so that the Energy Commission can demonstrate compliance with the statutory requirement. These amendments apply only to the private entity applicant and awardee but entail action by local agencies in order for the approved projects to be funded. However, the cost of providing written notice of an approval that has already been made does not constitute a new program or increase the level of service in an existing program and hence does not create a local mandate.

Fiscal Impact — Gov. Code section 11346.5, subd. (a)(6)

Per Government Code, section 11346.5, subdivision (a)(6), the proposed amendments would have impacts on the Energy Commission, a state agency; may have impacts on local agencies as applicants; and also may impact on local agencies when a private entity receives an award for a project within the local agency jurisdic-

tion. The proposed amendments will not have an effect on school districts.

Most of the amendments consist of the deletion of existing requirements, resulting in a simpler and shorter application and review process. These will create savings identified below. Other amendments making grammatical and stylistic changes are non-substantive in nature and have no cost impacts. Modifying the regulations to reflect changes in statute and Energy Commission practice will also have no cost or savings impacts. There are two amendments that change — as opposed to eliminate — requirements that could affect local agencies. These amendments provide guidance to applicants regarding several statutory requirements. The proposed amendment requiring that local jurisdictions provide approval of an award to a private entity applicant in writing will impose very minor costs that are identified below. The proposed amendment clarifying the documentation needed for a CEQA determination will impose no additional costs, as explained below.

Cost or Savings to Any State Agency

The proposed amendments would not increase costs for any state agency. Other than the Energy Commission, the proposed amendments would not create savings for any state agency. The proposed amendments would save the Energy Commission approximately 0.35 of a person-year per solicitation due to the simpler process for reviewing applications. Approximately \$53,000 in personnel costs would be saved per solicitation, which would take place approximately every two years, depending on the salary of staff analysts reviewing the applications. These savings would be used for other program outreach activities and training workshops to help local agency and private entity applicants and awardees (e.g. workshops on CEQA, preparation of project applications, and writing sound reports, etc.).

Cost to Any Local Agency or School District That is Required to be Reimbursed

As noted in the previous section, the proposed amendments would not impose a cost to local agencies that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

As noted above, the statutory provisions implemented by the proposed regulations require the award to be approved by the local governmental jurisdiction within which the project is to be located. (Pub. Resources Code section 23822, subd. (g).) The proposed amendments interpret that provision by requiring that the approval be provided to the Energy Commission in writing and stating that e-mail is an acceptable means of doing so.

Based on historical data, staff estimates that local agencies would need to supply six funding approvals per round of funding. The Energy Commission estimates that a local agency will expend \$20 to express its approval of a private entity award in writing. This estimate is based on the costs identified for preparing a business letter according to a study by Dartnell Institute of Business Research (2006). The total impact on local agencies will be \$120 per round of funding.

With respect to CEQA, the proposed amendments would require an applicant to provide documents sufficient to support an Energy Commission’s determination that its decision approving an award for the project is in compliance with CEQA. This could consist of submitting evidence of the local jurisdiction’s own determination about CEQA or, when the Energy Commission is the Lead Agency and responsible for CEQA compliance, submitting the documentation to the Energy Commission that the local government would develop were it the Lead Agency. There should be no additional cost for a local agency to present the information necessary to support a CEQA determination to the Energy Commission rather than to itself or another Lead Agency. Therefore, no additional costs are associated with this proposed amendment.

As applicants, local agencies would experience savings due to the simpler, one-step application process. These savings are estimated to average \$7,700 per application, and the Energy Commission expects approximately 10 local agency applications per funding cycle.

Cost or Savings in Federal funding

The proposed amendments would not impact federal funding to the state.

Housing Costs — Gov. Code section 11346.5, subd. (a)(12)

The proposed amendments do not impact housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete — Gov. Code sections 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8).

Per Government Code, section 11346.5, subdivision (a)(8), the Energy Commission has made an initial determination that the proposed amendments 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.

As noted previously, these amendments have four objectives: creating a simpler application process by deleting steps in the application and review process, providing guidance regarding several statutory requirements, updating the regulations to reflect changes in statute and Energy Commission practice, and clarifying

existing language by making grammatical and stylistic changes to the regulations. Businesses affected by these proposed amendments are private entity applicants for Energy Commission awards made pursuant to the Geothermal Grant and Loan Program. By simplifying and shortening the application and review process, the Energy Commission is making it easier for private entity applicants to apply for awards. And in clarifying statutory requirements related to local government approval and CEQA compliance, the proposed amendments will eliminate uncertainty that currently exists in the application and review process. The proposed amendments do require that a private business discuss obtaining approval with the local government, but the requirement to obtain local approval is imposed by statute and an applicant would need to undertake this discussion regardless of whether a discussion of compliance with the requirement is included in the application. (See discussion below, Impacts on a Representative Private Person or Business). Grammatical and stylistic changes and changes to reflect changes in statute and Energy Commission practice will have no effect on business. Therefore, these amendments 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.

Statement of the Results of the Economic Impact Assessment — Gov. Code section 11346.5, subd. (10)

The proposed amendments do not meet the statutory definition of a major regulation, because they will not have an economic impact on California business enterprises and individuals exceeding \$50 million as estimated by the Energy Commission. (Gov. Code, § 11342.548.)

Therefore, the Energy Commission here supplies the results of the economic impact assessment as required by Government Code, section 11346.3, subdivision (b).

The Energy Commission has determined that the proposed amendments:

- Will not create or eliminate jobs within the State of California.
- Will not create new or eliminate existing businesses within the state of California.
- Will not expand business currently doing business in the State of California.
- Will not impact the health and welfare of California residents or worker safety, or the state's environment.

As noted above, most of the amendments consist of the deletion of existing requirements, resulting in a simpler and shorter application and review process, and reduced costs for private entity applicants and local government applicants compared to the status quo. Proposed amendments clarifying statutory requirements

related to local government approval and CEQA compliance eliminate uncertainty that exists in the current regulations. Updating the regulations to reflect changes in statute and Energy Commission practice will not create any impact on business. Finally, other amendments making grammatical and stylistic changes are non-substantive in nature, and would have no impact on business.

Impacts on a Representative Private Person or Business — Gov. Code section 11346.5, subd. (a)(9)

Per Government Code, section 11346.5, subdivision (a)(9), the Energy Commission here discusses the cost of the amendments that a representative private person or business would necessarily incur in reasonable compliance with the proposed amendments. As noted above, most of the amendments consist of the deletion of existing requirements, resulting in a simpler and shorter application and review process, and reduced costs for private entity applicants compared to the status quo. While there is no published data on costs and savings associated with the amendments, Energy Commission staff conducted informal surveys of previous applicants to the Geothermal Grant and Loan Program for estimates of their costs and savings. Based on these responses, staff developed conservative estimates for average savings to private applicants of \$2,652 per application or \$53,040 per solicitation, assuming 20 private entity applicants.

Other amendments making grammatical and stylistic changes are non-substantive in nature, and would have no cost impacts on private persons or businesses. Similarly, updating the regulations to reflect changes in statute and Energy Commission practice will not impose any costs on businesses. Finally, proposed amendments clarifying statutory requirements related to local government approval and CEQA compliance eliminate ambiguity that exists in the current regulations, and should impose only the minimal costs identified below.

Approval documents. Public Resources Code section 3822, subdivision (g) requires a private entity applicant to obtain local jurisdiction approval of any award issued under the Geothermal Grant and Loan Program. The proposed amendments require a private entity to explain in the application how it would obtain local approval for an award.

Drafting this explanation for inclusion in the application is conservatively estimated to take 10 hours at \$100/hour, or \$1,000 per application. The proposed amendments also state that if a private entity won an award, it would be required to provide a written copy of the approval. The time required for a private entity awardee to request that the approval be provided in writing and submit that approval to the Energy Com-

mission is \$40, the cost of preparing two business letters.

CEQA assessments. As an applicant, a private entity would be required to produce documents sufficient to support an Energy Commission’s determination that its decision approving an award for the project is in compliance with CEQA. This should impose no additional cost because an applicant must produce these documents for the lead agency on the project, whether the lead agency is the Commission or a local governmental agency.

Conclusion

The costs to a private entity associated with the regulation would average \$1,000 per application, and should the entity receive a grant or loan, \$40 per award. The savings to a private entity would average \$2,652 per application. Therefore, the Energy Commission has identified a net savings of \$1,612 to \$1,652 per application that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Reports by Business — Gov. Code sections 11346.5, subd. (a)(11), 11346.3, subd. (d)

Per Government Code, section 11346.5, subdivision (a)(11), the proposed amendments do not require any reports by business; therefore the finding identified in Government Code, section 11346.3, subdivision (d) is not required for this rulemaking.

Effects of the Regulation on Small Business — Cal. Code Regs., tit. 1, section 4

The proposed amendments are likely to affect small business. Some applicants to the program meet the definition of small businesses in Government Code, section 11342.610, and the Energy Commission anticipates future applicants would also meet that definition. The Energy Commission expects that 50–75% of applicants in a funding cycle could qualify as a small business. Impacts on a small business applicant are the same as any other private entity applicant. See further discussion above under “Impacts on a Representative Private Person or Business.” As identified above, private entity applicants would see a reduction in costs due to the simpler application process; these savings are estimated to average \$2,652 per application. As above, the estimated costs are \$1,000 per application and should the entity win a grant or loan, \$40 per award. Net savings are therefore estimated to average \$1612–\$1652 per application.

Alternatives — Gov. Code section 11346.5, subd. (a)(13)

In this rulemaking proceeding, the Energy Commission must determine that no reasonable alternative considered by it 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. The Energy Commission considered alternatives in drafting the proposed amendments and may consider additional alternatives as the Commission proceeds with the formal rulemaking process, which begins with publication of this Notice of Proposed Action.

Energy Commission Contacts — Gov. Code section 11346.5(a)(14)

Per Government Code, section 11346.5, subdivision (a)(14) and section 11340.85, subdivision (b)(2), please direct inquiries concerning the proposed amendments to Cheryl Closson, Cheryl.Closson@energy.ca.gov, (916) 327–2312 or Rizaldo Aldas, Rizaldo.Aldas@energy.ca.gov, (916) 327–1417.

Legal questions may be directed to Robin Mayer, Robin.Mayer@energy.ca.gov, (916) 651–2921.

Availability of Materials — Gov. Code section 11346.5(a)(16)

Per Government Code, section 11346.5, subdivision (a)(16) and section 11340.85, subdivision (b)(2), the Energy Commission has prepared a statement of reasons for the proposed amendments, has available all of the information upon which its proposal is based, and has available the express terms of the proposed amendments in strikeout/underline form.

Changes to the Proposed Amendments — Gov. Code section 11346.5, subd. (a)(18)

Per Government Code, section 11346.5, subdivision (a)(18), if changes are made to the proposed amendments pursuant to Government Code section 11346.8, the full text of the change will be available for at least 15 days prior to the date on which the Energy Commission adopts the resulting regulation. Any written comments received regarding the change will be responded to in the final statement of reasons.

Participants should be aware that any of the proposed regulations could be substantively changed as a result of public comment, staff recommendation, or recommendations from Commissioners. Moreover, additional changes to the proposed regulations not indicated in the proposed amendments could be considered, if they improve the clarity or effectiveness of the regulations or are supported by public comment.

Final Statement of Reasons — Gov. Code section 11346.5, subd. (a)(19)

Per Government Code, section 11346.5, subdivision (a)(19) and section 11340.85, subdivision (b)(2), the Energy Commission will make the Final Statement of

Reasons for any adopted amendments available on the Energy Commission's website at http://energy.ca.gov/geothermal/grda_rulemaking/. In addition, any person may request copies of the Final Statement of Reasons from the Docket Unit, docket@energy.ca.gov, (916) 654-5076, or by mailing the request to:

Docket Unit
No. 12-OIR-02
California Energy Commission
1516 9th St. MS-14
Sacramento, CA 95814-5512

Internet Access — Gov. Code section 11346.5, subd. (a)(20)

Per Government Code section 11346.5, subdivision (a)(20) and section 11340.85, all notices, express terms (text of the amendments), changes to the express terms, initial and final statements of reasons, documents relied on, and orders related to the rulemaking are or will be available on the Energy Commission's website.

The Energy Commission will post these documents, which can be downloaded in Adobe® Acrobat® .pdf format, to http://energy.ca.gov/geothermal/grda_rulemaking/.

TITLE 22. DEPARTMENT OF CHILD SUPPORT SERVICES

NOTICE OF PROPOSED RULEMAKING TO AMEND THE CONFLICT OF INTEREST CODE OF THE DEPARTMENT OF CHILD SUPPORT SERVICES

NOTICE IS HEREBY GIVEN that the Department of Child Support Services (DCSS) proposes to amend its Conflict of Interest Code. Amendment is to update the Conflict of Interest Code to follow the Fair Political Practices Commission model for Conflict of Interest Code text, to reflect structural changes in the organization of the DCSS, changes in positions with potential conflicts of interest and assignment of reporting requirements to some new position classifications. The provisions of the DCSS Conflict of Interest Code that will be amended include the appendices that list the positions with reporting requirements and the reporting requirement categories.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The proposed amended text of the DCSS Conflict of Interest Code including appendices and the Initial Statement of Reasons for this rulemaking are posted to the DCSS public website at:

<http://www.childsup.ca.gov/Resources/ChildSupportRegulations.aspx>

Any further revised version of the text and the Final Statement of Reasons will be posted to this webpage when they become available. The department has available all of the information upon which this rulemaking is based. That information is too voluminous to include here. If you do not have internet access, copies of the amended DCSS Conflict of Interest Code and Initial Statement of Reasons may be secured from the contact person listed below.

CONTACT PERSON

Any inquiries regarding this action to amend the DCSS Conflict of Interest Code may be directed to:

Name: Lara Chandler
Telephone: 916-464-0523
Fax: 916-464-5069
Email Address: lara.chandler@dcss.ca.gov
Postal Address: Dept. of Child Support Services
Office of Legal Services
MS-110
Attn: Lara Chandler
P.O. Box 419064
Rancho Cordova, CA 95741-9087

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the DCSS. All comments should be submitted to the contact person named above at the addresses or phone number provided. The written comment period shall begin on August 23, 2013 and end on October 7, 2013 at 5:00 p.m. The DCSS shall consider only comments received by the contact person at the DCSS Legal Offices by the deadline.

PUBLIC HEARING

The DCSS has not scheduled a public hearing for this proposed action. Any interested person or his or her representative may request a public hearing. If DCSS receives a written request for a public hearing from any interested person or his or her authorized representative no later than 15 days before the close of the written

comment period, the DCSS will conduct a public hearing on this proposed action.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Child Support Services (DCSS) adopted its original Conflict of Interest Code (COIC) in 2001. DCSS has subsequently grown, restructured organizationally, and changed and added some position classifications and their duties. The DCSS COIC needs to be amended to update it so that it properly reflects which departmental positions require disclosure of any personal financial interests with potential for conflict with duties, and what types of personal financial interests must be disclosed. Government Code section 87306 authorizes this amendment of the DCSS COIC.

The DCSS COIC is a regulation adopted into Title 22 of the California Code of Regulations at section 123000. It consists of section 123000, the Designated Positions Appendix, and the Disclosure Categories Appendix.

The text of section 123000 essentially functions to incorporate by reference the comprehensive COIC adopted by the Fair Political Practices Commission (FPPC). The complex requirements of the FPPC's COIC have been carefully developed and departments are encouraged to incorporate them by reference rather than draft their own language for this complex area of law. Section 123000 does not require any amendment at this time.

The Designated Positions Appendix has required the most amending because the DCSS has grown substantially since the original adoption of our COIC. There has also been increased specialization and position duty and title differentiation. All changes reflect current position titles and duties.

The Disclosure Categories Appendix contains seven different disclosure categories into which positions with potential for conflicts of interest may be assigned. The only substantive amendment on this appendix is made to add category seven. This change is to conform to the FPPC model and clarify those positions with regulatory authority that report in category seven.

AUTHORITY AND REFERENCE

Authority: Family Code sections 17306, 17310 & 17312; Government Code section 87306.

Reference: Government Code sections 87300–87302 & 87306.

DISCLOSURES REGARDING THE PROPOSED ACTION

The DCSS has determined that the adoption of the proposed amendments to the DCSS Conflict of Interest Code will not impose a cost or savings on any state agency, local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code; will not result in any nondiscretionary cost or savings to local agencies; will not result in any cost or savings in federal funding to the state; will not impose a mandate on local agencies or school districts; and will not have any potential cost impact on private persons or businesses including small businesses.

CONSIDERATION OF ALTERNATIVES

The DCSS must determine that no reasonable alternative considered by the DCSS or that has otherwise been identified or brought to the attention of the DCSS would be more effective in carrying out the purpose for which these regulations are being implemented, or would be as effective as and less burdensome to affected private persons than these regulations.

TITLE 22. DEPARTMENT OF PUBLIC HEALTH

SUBJECT: HEXAVALENT CHROMIUM MCL (DPH-11-005)

NOTICE IS HEREBY GIVEN that the California Department of Public Health (Department) will conduct public hearings during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

PUBLIC HEARING

Public hearings have been scheduled for **Friday, October 11, 2013 at 9:00 a.m. to 12:00 p.m. in two locations: Sacramento, CA at the California Department of Public Health, 1500 Capitol Ave, Sacramento, CA 95814 and in Los Angeles, CA at the Metropolitan Water District of Southern California, 700 N. Alameda Street, Los Angeles, CA 90012.**

For individuals with disabilities the Department will provide assistive services such as sign–language interpretation, real–time captioning, note takers, reading or writing assistance, and conversion of written public hearing materials into Braille, large print, audiocas-

sette, or computer disk. *Note:* The range of assistive services available may be limited if requests are received less than ten business days prior to the public hearing. To request such services or copies of materials in an alternate format, please write to Dawn Basciano, Office of Regulations, MS 0507, P.O. Box 997377, Sacramento, CA 95899–7377, or call (916) 440–7367, or use the California Relay Service by dialing 711.

WRITTEN COMMENT PERIOD

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by **5:00 p.m., October 11, 2013**, which is hereby designated as the close of the written comment period.

Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier “DPH –11–005” in the subject line to facilitate timely identification and review of the comment; or
2. By fax transmission: (916) 440–5747; or
3. By mail to: Office of Regulations, California Department of Public Health, MS 0507, P.O. Box 997377, Sacramento, CA 95899–7377; or
4. Hand–delivered to: 1616 Capitol Avenue, Sacramento, CA 95814.

It is requested but not required that written comments sent by mail or hand–delivered be submitted in triplicate.

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

All suppliers of domestic water to the public are subject to regulations adopted by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act of 1974, as amended (42 U.S.C. 300f et seq.), as well as by the Department under the California Safe Drinking Water Act (Health & Saf. Code, div. 104, pt. 12, ch. 4, § 116270 et seq.). California has been granted primary enforcement responsibility, (“primacy”) by

U.S. EPA for public water systems in California. California has no authority to enforce federal regulations, but only state regulations. Federal law and regulations require that California, in order to receive and maintain primacy, promulgate regulations that are no less stringent than the federal regulations. Currently, U.S. EPA has a drinking water standard for chromium, which includes hexavalent chromium as an element of chromium, but has no standard specifically for hexavalent chromium. Pursuant to Health and Safety Code sections 116350, 116375, 131052, and 131200, the Department has the responsibility and authority to adopt the subject regulations.

In accordance with federal regulations, California requires a public water system to sample its sources and have the samples analyzed for inorganic chemicals to determine compliance with drinking water standards, including MCLs. Primary MCLs are based on health protection, technical feasibility, and costs. The public water system must notify the Department and the public when noncompliant with a primary MCL and take appropriate action.

Section 116365.5 of the Health and Safety Code mandates that the Department establish a primary drinking water standard for hexavalent chromium on or before January 1, 2004. Section 116365 of the Health and Safety Code imposes requirements on the Department for adoption of primary drinking water standards. One of those requirements is that the Department set the MCL as close as possible to the public health goal (PHG) established by the California Environmental Protection Agency Office of Environmental Health Hazard Assessment (Cal/EPA OEHHA), to the extent technologically and economically feasible. OEHHA established the PHG for hexavalent chromium on July 27, 2011. OEHHA set the PHG at 0.02 micrograms per liter (µg/L), equivalent to 0.00002 milligrams per liter (mg/L).

In 2011, California AB 938 was chaptered, which commencing July 1, 2012, requires the following when a written Tier 1 public notice is given by the public water system:

- It shall be provided in English, Spanish, and in the language spoken by any non–English–speaking group that exceeds 10 percent of persons served by the public water system, and shall contain a telephone number or address where residents may contact the public water system for assistance; and
- For each non–English–speaking group that speaks a language other than Spanish and that exceeds 1,000 residents but is less than 10 percent of the persons served by the public water system, the notice shall contain information regarding the importance of the notice and a telephone number

or address where the public water system will provide either a translated copy of the notice or assistance in the appropriate language.

POLICY STATEMENT OVERVIEW

Problem Statement: The California Department of Public Health (Department; formerly, the California Department of Health Services (CDHS)), as well as the U.S. Environmental Protection Agency, establish drinking water standards to ensure the drinking water provided to the public by public water systems is safe, potable, reliable, and protective of public health. For drinking water served to the public, the Department establishes maximum allowable levels for various contaminants that occur in sources of drinking water supplies, whether man-made or naturally occurring. These maximum levels are known as maximum contaminant levels or MCLs, and are also known as primary drinking water standards. A drinking water standard specific for hexavalent chromium does not exist at the national or state level. Section 116365.5 of the Health and Safety Code mandates that the Department establish a primary drinking water standard for hexavalent chromium on or before January 1, 2004. However, a standard for hexavalent chromium could not be adopted without the establishment of a public health goal (PHG). This step was completed in 2011 by the Office of Environmental Health Hazard Assessment, an office within California's Environmental Protection Agency. Section 116365 of the Health and Safety Code imposes requirements on the Department for adoption of primary drinking water standards for the protection of drinking water quality for the human environment. Additionally, in 2011, California Assembly Bill (AB) 938 was chaptered, revising section 116450 of the Health and Safety Code, establishing criteria specific to Tier 1 public notifications provided by a public water system that are more stringent than existing regulations. The regulations are amended to implement, interpret, or make specific the statutory provisions of sections 116365 and 116365.5 of the Health and Safety Code and AB 938.

Objectives (Goals): Broad objectives of this proposed regulatory action are to:

- Adopt a drinking water MCL for hexavalent chromium for the protection of public health and the environmental quality of drinking water, consistent with statutory requirements.
- Update existing drinking water public notification regulations, consistent with statutory bilingual notification requirements.

Benefits: Anticipated benefits from this proposed regulatory action are:

- Provide increased public health protection by reducing the potential risk of adverse health effects associated with hexavalent chromium.
- Increase the ease at which crucial public health information related to drinking water contamination is disseminated to non-English-speaking groups.

SUMMARY OF PROPOSAL

These proposed regulations serve two purposes, both required as a result of legislative enactments. The first and primary purpose is to adopt a maximum contaminant level (MCL) for hexavalent chromium in drinking water, as required by sections 116365 and 116365.5 of the California Safe Drinking Water Act (Health and Saf. Code, div. 104, pt. 12, ch. 4, §116270 et seq.). The second purpose is to revise and augment regulations, in a manner consistent with section 116450 of the California Safe Drinking Water Act, related to the public notification of public water systems' violation of provisions of California's Safe Drinking Water Act and regulations adopted thereunder.

These proposed regulations for the establishment of maximum contaminant levels are being adopted by the Department of Public Health. A drinking water maximum contaminant level is a standard applicable to water supplied by public water systems and intended for human consumption, including drinking, cooking, bathing and oral hygiene, and is enforceable under the California Safe Drinking Water Act. The harmful contaminants regulated by maximum contaminant levels may be biological, chemical or mineral, and may be naturally occurring or the result of human activities. State and regional water quality control boards have the authority to regulate contamination of groundwater, including hexavalent chromium contamination of groundwater, which occurred as a result of business or industrial practices. These regional water quality control boards' authorities include requiring violators to take mitigation actions and the boards may enforce actions they determine to be appropriate, which may be lower than the maximum contaminant level proposed in this regulation. These regulations do not restrict the authority of the regional water quality control boards to order the cleanup of contaminated water.

Pursuant to federal primacy requirements and sections 116350, 116375, 131052, and 131200 of the Health and Safety Code, the Department proposes the below noted changes to title 22. The Department also proposes a number of nonsubstantive changes, which will correct grammar, punctuation, spacing, spelling, typographical errors, use of plural and upper/lower case, page numbers referenced in the *Federal Register*, and reference to sections, subsections, and paragraphs;

include common alternative terminology; delete subsection and subparagraph designations; and delete redundant text and unnecessary punctuation and text.

- Amend section 64213 (Chemical Quality Monitoring) to make section reference revisions and nonsubstantive changes.
- Amend section 64431 (Maximum Contaminant Levels—Inorganic Chemicals) as follows:
 - (a) to make nonsubstantive changes; and
 - Table 64431–A to adopt a hexavalent chromium MCL.
- Amend section 64432 (Monitoring and Compliance—Inorganic Chemicals) as follows:
 - (a) and (b) to make nonsubstantive changes;
 - (b)(1) to allow “grandfathering” of prior groundwater monitoring of inorganic chemicals when meeting specific criteria;
 - (b)(2) to allow screening for hexavalent chromium using chromium, under certain conditions;
 - (c) and (d) to make nonsubstantive changes;
 - Table 64432–A to adopt a hexavalent chromium detection limit for purposes of reporting;
 - (h)(2)(A) and (B), (m), (n), (o), and (o)(1) and (2) to make nonsubstantive changes; and
 - (p) to establish a directive for a distribution system chromium speciation study.
- Amend section 64447.2 (Best Available Technologies (BAT) — Inorganic Chemicals) as follows:
 - First paragraph to make a nonsubstantive change; and
 - Table 64447.2–A to adopt best available technologies for hexavalent chromium, include common alternative terminology, and make nonsubstantive changes.
- Amend section 64463 (General Public Notification Requirements) as follows:
 - (b) to clarify that notices for Department review and approval are to be in English, consistent with AB 938; and
 - (d) and (e) to make nonsubstantive changes.
- Amend section 64465 (Public Notice Content and Format) as follows:
 - (a)(10) to make a nonsubstantive change;
 - (c) to adopt Tier 1 public notice bilingual requirements consistent with AB 938, reorganize Tier 2 and 3 public notice bilingual requirements, and include a clarifying notice to specific public water systems subject to the Dymally–Alatorre Bilingual Services Act;
 - Appendices 64465–A and –B to make nonsubstantive changes;
 - Appendix 64465–C to adopt public notification (health effects) language for total radium;
 - Appendix 64465–D to adopt public notification (health effects) language for hexavalent chromium; and
 - Appendices 64465–E, –G, and –H to make nonsubstantive changes.
- Amend section 64481 (Content of the Consumer Confidence Report) as follows:
 - (d)(2)(D)3. to delete an obsolete Consumer Confidence Report reporting requirement;
 - (d)(2)(l) for consistency with appendix 64481–A;
 - (g)(2) to reference the current public notification (health effects) language for surface water treatment contaminants and delete obsolete public notification (health effects) language;
 - (l) for consistency with changes made to public notice bilingual requirements under section 64465(c); and
 - Appendix 64481–A to adopt Consumer Confidence Report (major origins in drinking water) language for total radium and hexavalent chromium.
- Amend section 64530 (Applicability of This Chapter); (c) and Table 64530–A to make nonsubstantive changes.
- Amend section 64534 (General Monitoring Requirements); (a) to make nonsubstantive changes.
- Amend section 64534.2 (Disinfection Byproducts Monitoring) as follows:
 - (a)(2) to make a nonsubstantive change;
 - (c)(2) to delete an obsolete source water bromide monitoring requirement;
 - (c)(3) and (3)(A) to make nonsubstantive changes;
 - (c)(3)(B) to delete an obsolete criterion to resume routine bromate monitoring; and

- (d)(2) to make a nonsubstantive change.
- Amend section 64534.8 (Monitoring Plans) as follows:
 - (b)(3) to make nonsubstantive changes; and
 - (d)(1) and (2) to make nonsubstantive changes and update *Federal Register* citations.
- Amend section 64535.2 (Determining Disinfection Byproduct Compliance) as follows:
 - (a)(1), (2), and (3) to provide compliance determinations based on the MCL, not a multiple of the MCL; and
 - (b), (d), and (d)(2) and (3) to make nonsubstantive changes.
- Amend section 64535.4 (Determining Disinfectant Residuals Compliance); (a)(1), (2), and (3) to provide compliance determinations based on the Maximum Residual Disinfectant Levels, not a multiple of the Maximum Residual Disinfectant Levels.
- Amend section 64671.80 (Water Quality Parameter or WQP) to make a nonsubstantive change.

The net effects of the proposed regulations would be as follows:

- Community water systems and nontransient noncommunity water systems would be required to monitor for hexavalent chromium, comply with a hexavalent chromium MCL, and report results;
- Community water systems and nontransient noncommunity water systems would be allowed to “grandfather” prior groundwater monitoring for a newly adopted inorganic chemical MCL when meeting specific criteria;
- Community water systems and nontransient noncommunity water systems would be allowed to screen for hexavalent chromium using chromium, under certain conditions;
- Community water systems and nontransient noncommunity water systems would be required, if directed by the Department, to conduct a Department–approved distribution system chromium speciation study;
- The best available technologies would be specified for hexavalent chromium removal;
- The public notices public water systems submit to the Department for review and approval prior to distribution or posting would be required to be in English;
- Public water systems would be required to comply with Tier 1 public notice bilingual requirements consistent with AB 938;

- Nontransient noncommunity water systems that violate the total radium MCL would be required to use specific public notification (health effects) language;
- Community water systems and nontransient noncommunity water systems that violate the hexavalent chromium MCL would be required to use specific public notification (health effects) language;
- Nontransient noncommunity water systems that detect total radium would be required to use specific Consumer Confidence Report (major origins in drinking water) language;
- Community water systems and nontransient noncommunity water systems that detect hexavalent chromium would be required to use specific Consumer Confidence Report (major origins in drinking water) language; and
- Community water systems and nontransient noncommunity water systems would be required to make compliance determinations for disinfectant residuals and disinfection byproducts based on Maximum Residual Disinfectant Levels and MCL, not multiples of Maximum Residual Disinfectant Levels and MCL, respectively.

None of the proposed amendments would affect California’s primacy status, because the net effect of these amendments is that the state’s regulation would be more stringent than the federal regulation, consistent with section 116270(f) of the Health and Safety Code. The U.S. EPA has not yet proposed or adopted an MCL for hexavalent chromium.

**EVALUATION AS TO WHETHER THE
PROPOSED REGULATIONS ARE
INCONSISTENT OR INCOMPATIBLE WITH
EXISTING STATE REGULATIONS**

The Department evaluated this proposal as to whether the proposed regulations are inconsistent or incompatible with existing state regulations. This evaluation included a review of the Department’s existing general regulations and those regulations specific to hexavalent chromium and Tier 1 public notice bilingual requirements for drinking water. An internet search of other state agency regulations, including those of the State Water Resources Control Board, was also performed. State and Regional water quality control boards currently have the authority to regulate contamination of groundwater, including hexavalent chromium contamination of groundwater, which occurred as a result of business or industrial practices. These regional water quality control boards’ authorities include requiring violators to take mitigation actions and the boards may

enforce standards they determine to be appropriate, which may be lower than the maximum contaminant level proposed in this regulation. These regulations do not restrict the authority of the regional water quality control boards to order the cleanup of contaminated water. It was determined that no other state regulation addressed the same subject matter and that this proposal was not inconsistent or incompatible with other state regulations. Therefore, the Department has determined that this proposal, if adopted, would not be inconsistent or incompatible with existing state regulations.

DOCUMENT INCORPORATED BY REFERENCE

The following document is incorporated by reference in the regulations as it would be too cumbersome, unduly expensive, or impractical to publish these documents into regulation.

- 40 Code of Federal Regulations part 141.605(b) (74 Fed. Reg. 30953 (June 29, 2009), “National Primary Drinking Water Regulations: Minor Correction to Stage 2 Disinfectants and Disinfection Byproducts Rule and Changes in References to Analytical Methods”.

Note: The Federal Register reference may be viewed, at no cost, through the following Internet address: <http://www.gpoaccess.gov/fr/index.html>.

FORMS INCORPORATED BY REFERENCE

NA

MANDATED BY FEDERAL LAW OR REGULATIONS

NA

OTHER STATUTORY REQUIREMENTS

N/A

LOCAL MANDATE

The Department has determined that the proposed regulation would not impose a mandate on local agencies or school districts that require state reimbursement, as the Department is implementing section 116365.5 of the Health and Safety Code and AB 938 (Chapter 514, Statutes of 2011). As a result, local agencies or school districts should not incur costs resulting from the adoption of this regulation.

Local agencies or school districts currently incur costs in their operation of PWS. These costs are not the result of a “new program or higher level of service” within the meaning of Article XIII B, Section 6 of the California Constitution because they apply generally to all individuals and entities that operate PWS in California and do not impose unique requirements on local governments. Therefore, no state reimbursement of these costs is required.

Local regulatory agencies also may currently incur costs for their responsibility to enforce state regulations related to small PWS (fewer than 200 service connections) that they regulate. However, local agencies are authorized to assess fees to pay reasonable expenses incurred in enforcing statutes and regulations related to small PWS (Health & Saf. Code, § 101325). Therefore, no reimbursement of any incidental costs to local agencies in enforcing this regulation would be required (Gov. Code, § 17556(d)).

AUTHORITY AND REFERENCE

The Department proposes to adopt this regulation under the authority granted by Health and Safety Code sections 116350, 116375, 131052, and 131200. This proposal implements, interprets, and makes specific sections 116275, 116340, 116350, 116365, 116365.5, 116370, 116385, 116450, 116460, 116470, 116530, and 116555 of the Health and Safety Code.

FISCAL IMPACT ESTIMATE

- A. Fiscal Impact on Local Government: \$16.5 million annually, which is not reimbursable by the State pursuant to Article XIII B, Section 6 of the California Constitution.
- B. Fiscal impact on State Government: \$1.8 million annually, which is anticipated to be absorbable by State agencies within their existing budgets. The Department estimates that there will be no change to the Drinking Water Program’s Safe Drinking Water Account fees and caps. The fees, caps, and annual adjustments are specified in statute under sections 116565, 116570, 116577, 116580, 116585, and 116590, California Health and Safety Code.
- C. Fiscal Impact on Federal Funding of State Programs: None.
- D. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.
- E. Mandate on Local Agencies or School Districts: None.

F. Effect on Small Businesses: The Department has determined that the proposed regulations would not affect small business because Government Code chapter 3.5, article 2, section 11342.610 excludes drinking water utilities from the definition of small business.

- The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment. The Department has made a determination that the proposed regulations would improve the protection of the public's health and welfare through the control of hexavalent chromium and its associated risk in the public's drinking water supply, with no adverse impacts to worker safety or California's environment.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The estimated annual cost to privately owned water systems is \$1.0 million.

HOUSING COSTS

The Department has determined that the regulations will have no impact on housing costs.

ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulations would not significantly affect the following:

- The creation or elimination of jobs within the State of California. The requirements summarized above should not have any effect in that there would not be any significant change in PWS or regulatory personnel needed for compliance with the new requirements.
- The creation of new businesses or the elimination of existing businesses within the State of California. The nature of the drinking water industry is such that the adoption of this proposed regulation would not result in the creation or elimination of businesses. The impact of the proposed regulations would be insignificant.
- The expansion of businesses currently doing business within the State of California. Since PWS size is basically a function of the number of service connections (consumers) served, the proposed regulations should not have any effect on expansion.

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

The Department has determined that the proposed regulatory action would have no significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. The proposed regulations apply only to PWS, as defined pursuant to Health and Safety Code section 116275, which are not businesses or individuals. PWS are water companies providing drinking water to the public and, pursuant to Government Code section 11342.610, are exempt from the definition of a small business.

BUSINESS REPORT

The Department has determined that the proposed regulations would not require reports from businesses.

ALTERNATIVES STATEMENT

The Department must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency 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.

CONTACT PERSONS

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Mike McKibben of the Center of Environmental Health at (619) 525-4023.

All other inquiries concerning the action described in this notice may be directed to Dawn Basciano of the Of-

Office of Regulations, at (916) 440-7367, or to Alana McKinzie, at (916) 440-7689, the designated backup Office of Regulations contact person.

Please identify the action by using the Department regulation package identifier, DPH-11-005: Hexavalent Chromium MCL in any inquiries or written comments.

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

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, 1616 Capitol Avenue, Sacramento, CA 95814, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file).

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

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT
OF REASONS

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

AVAILABILITY OF DOCUMENTS ON
THE INTERNET

Materials regarding the action described in this notice (including this public notice, the regulation text, and the

initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation > Regulations > Proposed.

**TITLE 28. DEPARTMENT OF
MANAGED HEALTH CARE**

DATE: August 23, 2013
ACTION: Notice of Amendment to Department of Managed Health Care Conflict of Interest Code
SUBJECT: Conflict of Interest Code, section 1000 in Title 28, California Code of Regulations; Control No. 2010-2777.

NOTICE IS HEREBY GIVEN that the Department of Managed Health Care (DMHC), pursuant to the authority vested in it by Section 87306 of the Government Code, proposes amendments to its conflict-of-interest code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302 and section 87306 of the Government Code.

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

This amendment simplifies the DMHC's conflict-of-interest code by designating individual job classifications and adopts a streamlined format suggested by the Fair Political Practices Commission. Furthermore, this amendment makes other technical changes to reflect the current organizational structure of the Department. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than October 7, 2013, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than 15 days before close of the written comment period, by contacting the Contact Person set forth below.

The DMHC has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which

the amendments are based may be obtained by contacting the Contact Person set forth below.

The DMHC has determined that the proposed amendments:

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

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

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

Jennifer Willis, Senior Counsel
 Department of Managed Health Care
 980 Ninth Street, 5th Floor
 Sacramento, CA 95814
 Phone: (916) 324-9014
 Fax: (916) 322-3968
 E-mail: jwillis@dmhc.ca.gov

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

Project: Martin Slough Interceptor Phase 2 Project
Location: Humboldt County
Applicant: City of Eureka

Background

The City of Eureka (Applicant) proposes to construct a force main sewer line from the new Martin Slough Pump Station, located at the Eureka Municipal Golf Course, to its existing wastewater treatment plant. The Martin Slough Interceptor Phase 2 Project (Project) in-

cludes eliminating untreated sewage overflows to Martin Slough and providing gravity flow to the treatment plant. Existing lift stations within the Martin Slough watershed will be decommissioned, wastewater flows will be redirected, and new collector piping will be installed. Specific Project activities include the installation of 9,300 linear feet of force main sewer line through the Eureka Municipal Golf Course and private property via open trenching and horizontal directional drilling. The installation of the force main will require approximately 6,000 linear feet of open trenching. Five stream crossings will be utilized during construction for pipeline installation and collector piping removal and installation. Upon completion of pipeline installation, original stream channel grade will be reestablished, streambanks restored to pre-project conditions, and stream flow restored to the dewatered reaches. The Project will take place within the City of Eureka in Humboldt County.

The Project activities described above are expected to incidentally take¹ Southern Oregon/North California Coast (SONCC) coho salmon (*Oncorhynchus kitsutch*) where those activities take place within stream crossings B, C, and D in the Martin Slough and Elk River watersheds. In particular, SONCC coho salmon could be incidentally taken as a result of stress from handling, entrainment in nets, crushing during placement of temporary barriers, stranding in residual wetted areas after dewatering, dislocation into areas of poor habitat, and internal injuries suffered during electrofishing. SONCC coho salmon are designated as a threatened species pursuant to both the federal Endangered Species Act (ESA) (16 U.S.C. §1531 et seq.) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(2)(D).)

SONCC coho salmon individuals are documented as likely present at stream crossing B, present at stream crossing C, and likely present at crossing D, and there is occupied SONCC coho salmon habitat within and adjacent to the Project site. Because of the proximity of the nearest SONCC coho salmon and the presence of suitable SONCC coho salmon habitat within the Project site, the National Marine Fisheries Service (Service) determined that SONCC coho salmon are reasonably certain to occur within the Project site and Project acti-

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 CAL.4th 459,507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’. . . means to catch, capture or kill”).

vities are expected to result in the incidental take of SONCC coho salmon.

According to the Service, the Project will result in the temporary dewatering of approximately 180 linear feet of stream channel at crossings B, C, and D, within the Martin Slough and an unnamed tributary to Elk River. Construction of the Project will not result in the permanent loss of SONCC coho salmon habitat.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the Army Corps of Engineers (ACOE) consulted with the Service as required by the ESA. On June 26, 2013, the Service issued a biological opinion (Service Ref. No. 151422SWR2012AR00009) (BO) to the ACOE. The BO describes the Project, requires the Applicant to comply with terms of the BO and associated incidental take statement (ITS), and incorporates additional measures.

On July 12, 2013, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the BO and associated ITS are consistent with CESA for purposes of the Project and SONCC coho salmon. (Cal. Reg. Notice Register 2013, No. 30-Z, p. 1098.)

Determination

CDFW has determined that the BO and associated ITS are consistent with CESA as to the Project and SONCC coho salmon because the mitigation measures contained in the BO and associated ITS as well as the conditions in the EIR (SCH No. 2002082043), meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds: (1) take of SONCC coho salmon will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO, its associated ITS, and the EIR will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of SONCC coho salmon. The mitigation measures in the BO and associated ITS and EIR include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- Applicant will provide a qualified fisheries biologist to capture and relocate SONCC coho salmon away from in-stream work locations. SONCC coho salmon in the immediate Project area will first be herded downstream of the dewatered area. Then, remaining SONCC coho salmon will be captured by seine, dip net and/or by

electrofishing, and then transported and released to a suitable instream location.

- Applicant will replace an 18-inch diameter concrete culvert crossing with a 16-foot-long, 6-foot-wide clear span bridge on the East Tributary to Martin Slough. The existing culvert is the second crossing upstream from the confluence with Martin Slough. This mitigation will remove all obstructions currently within the stream channel that are associated with the current crossing, and provide unimpeded access to all life stages of salmonids. Applicant will complete this stage of mitigation during construction of Phase 2b.
- Applicant will remove an obsolete sewer collector pipe from the Martin Slough stream channel at the F Street crossing. The pipe and a concrete block beneath it currently block high stream flow and occasionally entrain debris, causing channel aggradation, bank erosion, and impede fish passage. Removal of the concrete block and the pipe section spanning the channel will improve channel form, increase stream depth, and enhance fish passage. Applicant will complete this mitigation during construction of Phase 2b.
- Applicant will only conduct construction at stream crossings B, C, and D between June 15 and October 15 in any work season. Applicant will contact the Service and CDFW to determine if additional measures are necessary to minimize take if it appears construction activity might go beyond October 15.
- Applicant will replant any native woody riparian vegetation removed during construction activities with native riparian plant species at a 2:1 ratio. A minimum of 80% survival rate shall be achieved after a period of three years. Applicant will replace all dead plants during the appropriate planting cycle and monitor them for a period of three years after planting. Applicant will mulch and seed all disturbed areas with an appropriate regional native seed mix.

Monitoring and Reporting Measures

- Applicant must immediately cease Project activities if injury or mortality of juvenile SONCC coho salmon occurs so the cause of injury or mortality can be assessed and ameliorated. Although not a condition of the BO, CDFW requests the Applicant contact Scott Bauer, Senior Environmental Scientist (Specialist) at (707) 441-2011, or by email at scott.bauer@wildlife.ca.gov within 24 hours of take.
- The BO requires the Applicant to submit a Project completion report to the Service in order to

monitor the impact to, and to track incidental take of SONCC coho salmon. Although not a condition of the BO, CDFW requests a copy of the Project completion report as well. The report shall include the following: summary detailing SONCC coho salmon relocation activities, including the number SONCC coho salmon relocated and the number injured or killed. The length of streambank (feet) stabilized or planted with riparian species. Finally, the distance (feet) of aquatic habitat disturbed at each Project site.

Financial Assurances

- Applicant secured \$25,500.00 in an account to implement both the East Tributary to Martin Slough culvert replacement, and the F Street sewer pipe crossing removal described above. Applicant demonstrated the availability of mitigation funds in the “City of Eureka Balance Sheet, July 31, 2013,” submitted with the CD request. Applicant will complete both mitigation sites during construction of Phase 2b of the Project.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of SONCC coho salmon, provided the Applicant implements the Project as described in the BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the BO, its associated ITS, and the EIR. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the BO and associated ITS or the EIR, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subs. (b) and (c)).

DEPARTMENT OF FISH AND WILDLIFE

California Endangered Species Act

Consistency Determination No. 2080–2013–007–03

Project: Mitchell Creek Riparian Restoration and Fish Passage Improvement Project
Location: Contra Costa County
Applicant: California Department of Parks and Recreation

Background

California Department of Parks and Recreation (Applicant) proposes to restore and enhance 1.3 acres of wildlife habitat and improve water quality south of the City of Clayton, in Contra Costa County. The Mitchell Creek Riparian Restoration and Fish Passage Improvement Project (Project) includes the modification and lowering of two concrete dams to restore the natural stream gradient, the construction of a roughened channel and step pool system, the removal of accumulated fill within and near the streambed, and the restoration of riparian vegetation. The restoration of habitat includes the enhancement of 0.94 acres of Alameda whipsnake (*Masticophis lateralis euryxanthus*) habitat through the creation of native scrub habitat. Equipment used will include an excavator, backhoe, dump truck, hand, and power tools.

The Project activities described above are expected to incidentally take¹ Alameda whipsnake where those activities take place within riparian or suitable Alameda whipsnake upland habitat. In particular, Alameda whipsnake could be incidentally taken as a result of crushing, desiccation, entombment, starvation, and capture and handling. Alameda whipsnake is designated as a threatened species pursuant to both the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(4)(D).)

Alameda whipsnake individuals are documented as present at the Project site and there is suitable Alameda whipsnake habitat within and adjacent to the Project site. Because of the proximity of the nearest documented Alameda whipsnake, dispersal patterns of the species, and the presence of suitable habitat within the Project site, the United States Fish & Wildlife Service (Service) determined that Alameda whipsnake is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of Alameda whipsnake.

According to the Service, the Project will result in the temporary loss of 2.0 acres of Alameda whipsnake habitat. Construction of the project will result in permanent restoration of 0.94 acres of Alameda whipsnake habitat.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the United States Army Corps of Engineers (ACOE)

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 CAL.4th 459,507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’ . . . means to catch, capture or kill”).

consulted with the Service as required by the ESA. On October 20, 2011, the Service issued a biological opinion (Service Ref. No. 81420-2011-F-0287) (BO) to the ACOE. The BO was amended on July 30, 2013. The amended BO describes the Project, requires the Applicant to comply with terms of the amended BO and its associated incidental take statement (ITS), and incorporates additional measures.

On July 31, 2013, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the amended BO and its associated ITS are consistent with CESA for purposes of the Project and Alameda whipsnake.

Determination

CDFW has determined that the amended BO, including its associated ITS, are consistent with CESA as to the Project and Alameda whipsnake because the mitigation measures contained in the amended BO and associated ITS, as well as the conditions in the BA, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of Alameda whipsnake will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the amended BO, associated ITS, and BA will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of Alameda whipsnake. The mitigation measures in the amended BO, associated ITS, and BA include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- Applicant will restore and enhance 0.94 acres of Alameda whipsnake habitat within upland locations of the Project area. Applicant will remove non-native vegetation, recontour the ground, and plant and monitor chaparral and scrub species for five years.
- Applicant will ensure the restored habitat will remain in perpetuity as outlined in the Mount Diablo State Park General Plan, incorporated by reference in the amended BO.
- An approved biologist will conduct a training session for all construction and park personnel prior to any Project activities. The biologist shall minimally include a description of Alameda whipsnake, suitable habitat types, importance of species and their habitat, the general measures that will be implemented to conserve Alameda

whipsnake as they relate to the proposed Project, and the physical boundaries in which the Project may be accomplished. The biologist will also provide instruction regarding the appropriate protocol to follow in the event that construction personnel encounter an Alameda whipsnake while conducting Project activities. Applicant will provide handouts with photos of Alameda whipsnake to all construction personnel.

- Applicant will limit the number of access routes, number and size of staging areas, and the total area of the activity to the minimum necessary to achieve the Project goal. Applicant will ensure that Project activities do not occur outside the designated Project area. Applicant will keep all activity and equipment within designated staging and work areas.
- An approved biologist, or biological monitor with the approved biologist available within thirty minutes travel time, will conduct daily pre-construction surveys immediately prior to the initiation of ground disturbing activities within suitable Alameda whipsnake habitat. The biologist or biological monitor shall walk the Project area and access roads while conducting visual encounter surveys in areas subject to vegetation clearing, grubbing, grading, cut and fill, or other ground disturbing activities. Applicant will ensure that an approved biologist or monitor inspects all staged materials each morning prior to the initiation of construction activities involving disturbance of material piles.
- An approved biologist or biological monitor shall inspect all holes and trenches at the beginning of work each workday and before such holes or trenches are filled.
- Applicant will not capture or handle Alameda whipsnake without authorization from the Service. Applicant will immediately consult the Service for recommendations on work continuance, relocation, or passive observation until the species moves off the Project site on its own. Although not a condition of the BO, CDFW requests the Applicant also contact Robert Stanley, Environmental Scientist at (707) 944-5573, or by email at robert.stanley@wildlife.ca.gov for consultation as well.
- Applicant will minimize trash or food waste in the Project area and ensure all food-related trash is kept in closed containers and removed from the site daily. Applicant will remove all construction material, waste, debris, sediment, rubbish,

vegetation debris, trash, and fencing upon Project completion.

- Applicant will create escape ramps or cover all excavated, steep walled holes or trenches more than one foot deep, at the end of each day to prevent inadvertent entrapment of Alameda whipsnake during construction.
- Applicant will not utilize any erosion control and exclusionary materials that contain any plastic monofilament mesh or other features that might lead to entrapment, injury, or death of Alameda whipsnake.
- Applicant will remove vegetation by hand and under the supervision of the biological monitor. Applicant will not allow machinery or vehicles in areas where the ground is not clearly visible.
- Applicant will install wildlife exclusion fencing (WEF) along temporary access routes located adjacent to the park boundary fence, between the existing horse corral and staging area, and around the rock staging location. Applicant will use fencing material consisting of plywood at the rock staging location, and silt fencing along the temporary access route. Biological monitors will visually monitor construction of the WEF to avoid any impacts to Alameda whipsnake during implementation. Biological monitors will regularly inspect and maintain the WEF in place throughout the duration of the Project. Applicant will completely remove the WEF and return Project areas to pre-Project conditions upon the completion of the Project.
- An approved biologist or biological monitor will conduct clearance surveys for Alameda whipsnake while walking in front of all vehicles driven by construction personnel along the Park Service/Fire Road.
- A biologist or biological monitor who is operating their own vehicle, may proceed with caution and shall stop the vehicle and conduct a visual inspection of the roadway for Alameda whipsnake before continuing when dappled light, shade, or any other conditions exist that obstruct the view of the road surface.
- Applicant shall ensure that all vehicles adhere to a 5 MPH speed limit on all dirt roads, and a 10 MPH speed limit on the short segment of paved road that passes park employee residences.

- Applicant will ensure that all vehicles parked for 30 minutes or more will be thoroughly inspected for the presence of Alameda whipsnake underneath or around them.

Monitoring and Reporting Measures

- Applicant shall submit a post-construction compliance report to the Service and CDFW within 30 calendar days of the date of completion of construction activity. This report shall detail: dates construction occurred, pertinent information concerning the success of the Project in meeting conservation measures, an explanation of any failures to meet such measures, any known Project effects on Alameda whipsnake, any occurrences of incidental take of Alameda whipsnake, documentation of employee environmental education, and other pertinent information.
- Applicant shall submit an annual report for five years documenting the success of re-vegetation work by December 31 of each subsequent year to the Service and CDFW.

Financial Assurances

- Applicant secured \$641,500.00 within two accounts to implement the Project. Applicant provided availability of mitigation funds in the memo, "Financial Assurance for Alameda Whipsnake Conservation Measures and Habitat Enhancement for the Mitchell Creek Restoration Project, Mount Diablo State Park, August 5, 2013," submitted with the CD request. Applicant will use these funds to cover the full costs of restoration, enhancement, and management of the restored habitat.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of Alameda whipsnake provided the Applicant implements the Project as described in the amended BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the amended BO, its associated ITS, and BA. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service further amends or replaces the amended BO, associated ITS, and BA the Applicant shall be required to obtain a new Consistency Determination or a CESA Incidental Take Permit for the Project from CDFW. (See generally Fish & G. Code, §§ 2080.1, 2081, subs. (b) and (c)).

**DEPARTMENT OF PESTICIDE
REGULATION**

NOTICE OF EXTENSION OF THE PUBLIC
COMMENT PERIOD REGARDING PROPOSED
CHANGES IN REGULATIONS
DEPARTMENT OF PESTICIDE REGULATION
Designating Brodifacoum, Bromadiolone,
Difenacoum, and Difethialone as Restricted Materials
(Second Generation Anticoagulant Rodenticide
Products)
DPR Regulation No. 13-002

The Department of Pesticide Regulation (DPR) published a Notice of Proposed Regulatory Action pertaining to second generation anticoagulant rodenticides, in the *California Regulatory Notice Register* of July 19, 2013, Register 2013, No. 29-Z, pages 1049-1052. The proposed action would designate the active ingredients brodifacoum, bromadiolone, difenacoum, and difethialone as California-restricted materials, making all second generation anticoagulant rodenticide (SGAR) products restricted materials. Also, this proposed action would add additional use restrictions for SGARs, and revise the definition of private applicator to refer to the federal definition of agricultural commodity found in Title 40, Code of Federal Regulations section 171.2(5).

DPR is hereby giving notice that it is extending the public comment period on this matter from September 3, 2013 to 5:00 p.m. on October 4, 2013.

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page (<http://www.cdpr.ca.gov>).

**SUPERINTENDENT OF
PUBLIC INSTRUCTION**

Interested Parties:

The California Regulatory Notice Register 2013, No. 29-Z, dated July 19, 2013, indicated that the State Superintendent of Public Instruction (SSPI) is proposing a regulation that would amend California Code of Regulations, Title 5, regarding the Migrant Education Program Statewide Parent Advisory Council.

The SSPI will extend the public comment period for the proposed regulations to 66 days. This extended comment period will close at 5:00 p.m. on September 24, 2013. The original Notice of Proposed Regulatory Action (Notice) specified a 45-day comment period. The original Notice specified a 45-day comment period.

All written comments must be received at the CDE by 5:00 pm on September 24, 2013. Written comments should be submitted to:

California Department of Education
Administrative Support and Regulations
Adoption Unit
1430 N Street, Room 5319
Sacramento, CA 95814
Attn: Debra Thacker, Regulations Coordinator

Written comments may also be submitted by facsimile (FAX) to 916-319-0155 or by e-mail to regcomments@cde.ca.gov.

Materials regarding the proposed rulemaking can be found at: <http://www.cde.ca.gov/re/lr/rr/mespac.asp>

**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# 2013-0812-01
BOARD OF GOVERNORS, CALIFORNIA
COMMUNITY COLLEGES
Inadequate Plans by District; Authorized Actions by the
Chancellor

The Board of Governors of the California Community Colleges submitted to OAL this action dealing with inadequate plans by district or authorized actions by the Chancellor as a print only file. Pursuant to Education Code section 70901.5, this action was filed with the Secretary of State by the Board on 7/8/2013, is exempt from the Administrative Procedure Act and OAL review, and was submitted to OAL only for the purpose of publishing the regulation in the California Code of Regulations.

Title 5
California Code of Regulations
AMEND: 58312
Filed 08/12/2013
Effective 07/08/2013
Agency Contact: Steven Bruckman (916) 445-9328

File# 2013-0802-04

COMMISSION ON TEACHER CREDENTIALING
English Learner and World Language: ELD

The Commission on Teacher Credentialing proposed this action to amend three sections in title 5 of the California Code of regulations pertaining. The proposed amendments establish a new single subject World Language: English Language Development (ELD) content area that would authorize the holder to provide ELD within departmentalized settings and retain the Specially Designed Academic Instruction in English authorization for future multiple subject, single subject, and education specialist credentialed teachers. The proposed regulations establish a final date of 12/31/2013 for candidates to enroll in programs based on the current English learner authorization structure, and include a transition period to allow for completion of the program and authorization for which candidates are enrolled. After 12/31/2013, the proposed amendments would limit the authorizations for providing ELD instruction for multiple subject credentialed teachers to students in self-contained or core classroom settings, for single subject credentialed teachers to students in a departmentalized class in the content areas and grades authorized by the basic credential, and for education specialist teachers to students with special needs.

Title 5

California Code of Regulations
AMEND: 80003, 80004, 80048.6

Filed 08/12/2013

Effective 10/01/2013

Agency Contact:

Tammy A. Duggan (916) 323-5354

File# 2013-0723-01

CONTRACTORS STATE LICENSE BOARD

Fees; Class C-5, C-6, C-14, & C-35; & Renewal Fee/
Reactivation Credit

This action without regulatory effect eliminates outdated regulatory language.

Title 16

California Code of Regulations
AMEND: 811, 832.05, 832.06, 832.35

REPEAL: 832.14, 854

Filed 08/07/2013

Agency Contact: Betsy Figueroa (916) 255-3369

File# 2013-0625-03

DELTA STEWARDSHIP COUNCIL

Regulatory Policies Contained in the Delta Plan

This rulemaking action implements the Sacramento-San Joaquin Delta Reform Act of 2009. It enables the

enforcement of the regulatory policies of the Delta Plan through a Certification of Consistency process which local and state government agencies will use concerning any covered activities taking place in the Delta which the agencies fund, carry out, or approve. The rulemaking action adopts regulations in Title 23 of the California Code of Regulations which specify the standards of consistency with the Delta Plan for these various Delta Plan regulatory policies.

Title 23

California Code of Regulations

ADOPT: 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016

Filed 08/07/2013

Effective 09/01/2013

Agency Contact: Chris Stevens (916) 445-0441

File# 2013-0808-03

DEPARTMENT OF FOOD AND AGRICULTURE

Section 3432 Oriental Fruit Fly Interior Quarantine

This emergency regulatory action by the California Department of Food and Agriculture amends section 3423(b) of Title 3 of the California Code of Regulations, to expand the Oriental Fruit Fly Interior Quarantine. The amendment adds 130 square miles in Orange and Los Angeles counties to the interior quarantine area.

Title 3

California Code of Regulations

AMEND: 3423(b)

Filed 08/09/2013

Effective 08/09/2013

Agency Contact: Lindsay Rains (916) 654-1017

File# 2013-0730-02

DEPARTMENT OF FOOD AND AGRICULTURE

Section 3435 Asian Citrus Psyllid Interior Quarantine

This certificate of compliance makes permanent the prior emergency regulatory action (OAL file no. 2013-0618-01EE) that amended section 3435(b) to expand the quarantine area for Asian Citrus Psyllid (ACP) by approximately 609 square miles to include the Desert Hot Springs area of Riverside and San Bernardino counties. The effect of the amendment provides authority for the State to perform quarantine activities against ACP within this additional area and existing regulated areas.

Title 3
 California Code of Regulations
 AMEND: 3435(b)
 Filed 08/12/2013
 Effective 08/12/2013
 Agency Contact: Lindsay Rains (916) 654-1017

File# 2013-0701-01
 DEPARTMENT OF INDUSTRIAL RELATIONS
 Workers' Compensation — Self Insurance — Annual Actuarial Reports

Employers must either insure for workers' compensation claims by using a carrier or by getting a certificate of consent from the Department of Industrial Relations (Department) to self insure, either as an individual employer or by joining with a group of employers. The certificates of consent to self-insure may be given upon furnishing satisfactory proof to the Director of ability to self-insure and to pay any compensation that may become due to his or her employees. Existing Labor Code section 3701 requires private self-insuring employers, including self-insuring groups of employers, to post security deposits with the Department. The Labor Code also addresses how those amounts are to be calculated. The Department is amending the regulations on self-insuring to update them and to implement new requirements signed into law on September 19, 2012 (SB 863, Ch. 363, Stats. 2012). SB 863 changes the calculation of those security deposits and requires that the calculation of the self-insurer's projected losses and expenses upon which the security deposit is based "be reflected in a written actuarial report that projects ultimate liabilities of the private self-insured employer at the expected actuarial confidence level, to ensure that all claims and associated costs are recognized." These regulations also articulate the qualifications of the actuary who prepares the study and report.

This rulemaking (among other things):

1. Defines the content of the annual actuarial reports required by Labor Code section 3701(c).
2. Describes the qualifications that the actuaries need to possess to prepare the annual reports; and,
3. Makes changes to bring the regulations into consistency with the changes enacted in SB 863.

Title 8
 California Code of Regulations
 ADOPT: 15209
 AMEND: 15201, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496, 15497
 Filed 08/13/2013
 Effective 08/13/2013
 Agency Contact: Jon Wroten (916) 574-0721

File# 2013-0709-02
 DEPARTMENT OF PUBLIC HEALTH
 DPH 10-006: Fluoroscopy Permits for Physician Assistants

This rulemaking by the California Department of Public Health amends Title 17 of the California Code of Regulations by adopting sections 30456, 30456.1, 30456.2, 30456.4, 30456.6, 30456.8, 30456.10, and 30456.12. These changes implement Assembly Bill 356, establishing the requirements for an individual who is licensed as a Physicians Assistant in California, to obtain a permit to operate fluoroscopy X-ray equipment on a human being.

Title 17
 California Code of Regulations
 ADOPT: 30456, 30456.1, 30456.2, 30456.4, 30456.6, 30456.8, 30456.10, 30456.12
 Filed 08/12/2013
 Effective 10/01/2013
 Agency Contact:
 Rosalie Dvorak-Remis (916) 327-4310

File# 2013-0628-01
 DEPARTMENT OF PUBLIC HEALTH
 Revised HIV/AIDS Case Report Forms

This regulatory action by the California Department of Public Health updates two HIV/AIDS case report forms to comply with the California Reportable Disease Information Exchange (CalREDIE) pilot project, which begins August 1, 2013. This action is exempt from the procedural and substantive requirements of the Administrative Procedure Act, including review by the Office of Administrative Law, pursuant to Health and Safety Code section 121022, subdivision (d).

Title 17
 California Code of Regulations
 AMEND: 2641.55
 Filed 08/12/2013
 Effective 08/12/2013
 Agency Contact: Charlet Archuleta (916) 445-9403

File# 2013-0701-02
 DIVISION OF WORKERS COMPENSATION
 Workers' Compensation — Interpreter Certification

This Certification of Compliance adopts requirements for certified, provisionally certified and certified for medical treatment appointments or medical legal exams interpreters in compliance with Chapter 363, Statutes of 2012.

Title 8
California Code of Regulations
ADOPT: 9795.1.5, 9795.1.6, 9795.5
AMEND: 9795.1, 9795.3
Filed 08/13/2013
Effective 08/13/2013
Agency Contact: Destie Overpeck (510)286-0656

File# 2013-0708-01
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
Proposition 65 Hydrogen Cyanide and Cyanide Salts
MADL

This rulemaking by the Office of Environmental Health Hazard Assessment (OEHHA) amends California Code of Regulations section 25805(b) of Title 27, adding Hydrogen Cyanide and Cyanide Salts to the existing list. For chemicals known to the state to cause reproductive toxicity under Proposition 65 (Safe Drinking Water and Toxic Enforcement Act of 1986), section 25805 provides safe harbor exemptions from the Proposition 65 warning requirements and discharge prohibitions, provided the chemical exposure falls within the specific regulatory levels of the maximum allowable dose level (MADL) listed in section 25805.

Title 27
California Code of Regulations
AMEND: 25805
Filed 08/08/2013
Effective 10/01/2013
Agency Contact: Monet Vela (916)323-2517

File# 2013-0625-01
PHYSICIAN ASSISTANT BOARD
Sponsored Free Health Care Events

This regulatory action establishes some requirements for health care events at which free care is offered to uninsured and under-insured individuals by volunteer health care practitioners where those practitioners may include individuals who may be licensed in one or more states, but are not licensed in California. Specifically, it establishes application requirements, recordkeeping procedures, forms to be used, and denial and appeal procedures for both sponsoring entities and out-of-state practitioners who wish to participate in the sponsored events.

Title 16
California Code of Regulations
ADOPT: 1399.620, 1399.621, 1399.622, 1399.623
Filed 08/07/2013
Effective 10/01/2013
Agency Contact: Glenn L. Mitchell (916)561-8783

File# 2013-0805-01
PHYSICIAN ASSISTANT BOARD
Technical Clean Up (Section 100 changes)

This action makes minor non-substantive changes to several sections as a result of SB 1236 (Chapter 332, Statutes of 2012), which changed the name of the Physician Assistant Committee to the Physician Assistant Board, effective January 1, 2013. It also repeals one section due to the repeal of the authorizing statute that it was implementing. A few reference citations are corrected as well to reflect this repeal.

Title 16
California Code of Regulations
AMEND: 1399.501, 1399.502, 1399.503,
1399.506, 1399.507, 1399.507.5, 1399.511,
1399.512, 1399.520, 1399.521, 1399.521.5,
1399.523, 1399.523.5, 1399.526, 1399.527,
1399.530, 1399.540, 1399.543, 1399.545,
1399.547, 1399.557, 1399.570, 1399.571,
1399.572, 1399.610, 1399.612, 1399.616,
1399.617, 1399.618, 1399.619
REPEAL: 1399.512
Filed 08/07/2013
Agency Contact: Glenn L. Mitchell (916)561-8783

File# 2013-0725-02
PUBLIC EMPLOYEES RETIREMENT SYSTEM
Public Employees' Pension Reform Implementation

The California Public Employees' Retirement System Board of Administration proposed this action to rename Article 6 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations from "Service Credit" to "2013 Public Employees' Pension Reform Implementation" and to add sections 579, 579.1, 579.2, 579.4, and 579.24 under the renamed article. The proposed action implements provisions contained in A.B. 340 (Stats. 2012, ch. 296; eff. 1/1/2013), known as the California Public Employees' Pension Reform Act of 2013, and related pension reform changes to the Public Employees' Retirement Law and the Legislators' Retirement Law.

Title 2
California Code of Regulations
ADOPT: 579, 579.1, 579.2, 579.4, 579.24
Filed 08/12/2013
Effective 08/12/2013
Agency Contact: Christina Nutley (916)795-2397

File# 2013-0717-01
STRUCTURAL PEST CONTROL BOARD
Cite & Fine/Disciplinary Guidelines

The Structural Pest Control Board (Board) submitted this action to amend sections 1920 and 1937.11 of title

16 of the California Code of Regulations and to amend the Board's "Manual of Disciplinary Guidelines and Model Disciplinary Orders," which is incorporated by reference in section 1937.11. The amendments to section 1920 remove criteria that must be met for the Board to impose fines in excess of \$2,500. The amendments to the manual of disciplinary guidelines remove references to three University of California Berkeley Extension correspondence courses, as the courses are no longer offered, replace them with continuing education courses approved by the Board, and make other nonsubstantive changes.

Title 16
 California Code of Regulations
 AMEND: 1920, 1937.11
 Filed 08/08/2013
 Effective 10/01/2013
 Agency Contact: Ronni O'Flaherty (916) 561-8700

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN March 20, 2013 TO
 August 14, 2013**

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

- 08/12/13 ADOPT: 579, 579.1, 579.2, 579.4, 579.24
- 07/24/13 AMEND: 599.500, 599.508
- 07/23/13 AMEND: 35101
- 06/25/13 ADOPT: 1859.97 AMEND: 1859.2, Form SAB 50-02, 1859.90.2
- 06/24/13 AMEND: 18247.5, 18413, 18427.1
- 06/03/13 AMEND: 43000, 43001, 43002, 43003, 43004, 43005, 43006, 43007, 43008, 43009
- 05/16/13 ADOPT: 59740
- 05/15/13 AMEND: 599.500, 599.501, 599.502, 599.508
- 04/16/13 AMEND: 23000
- 04/12/13 ADOPT: 51.4, 52.11, 56.5, 58.12, 58.13, 61 AMEND: 51.2, 51.6, 52.1, 52.4, 52.8, 53.2, 53.3, 54.1, 55.2, 56.3, 56.4, 57.1, 58.2, 59.1, 59.3, 60.1, 60.3
- 03/29/13 REPEAL: 26100

- 03/26/13 ADOPT: 20202, 20203, 20208, 20212, 20217, 20220.5, 20249.5 AMEND: 20200, 20201, 20203, 20204, 20205, 20206, 20207, 20208, 20209, 20210, 20211, 20212, 20213, 20214, 20215, 20216, 20220, 20221, 20222, 20223, 20224, 20225, 20226, 20227, 20230, 20235, 20236, 20245, 20247, 20249, 20250, 20251, 20252, 20253, 20254, 20255, 20256, 20257, 20258, 20259, 20260, 20261, 20262, 20265, 20266, 20267 REPEAL: 20237, 20238
- 03/25/13 ADOPT: 1859.90.3 AMEND: 1859.2, 1859.51, 1859.61, 1859.90.2, 1859.90.4, 1859.104, 1859.164.2, 1859.184.1
- 03/20/13 AMEND: 1897

Title 3

- 08/12/13 AMEND: 3435(b)
- 08/09/13 AMEND: 3423(b)
- 07/30/13 AMEND: 3435(b)
- 07/11/13 AMEND: 3591.12(a)
- 07/08/13 AMEND: 1701, 1701.1, 1701.2, 1702, 1703.2, 1703.3 REPEAL: 1703.4, 1703.5
- 07/02/13 AMEND: 1310
- 06/26/13 AMEND: 2751(b)
- 06/19/13 AMEND: 3435(b)
- 06/19/13 AMEND: 3435(b)
- 05/23/13 ADOPT: 6558, 6577, 6880, 6884, 6886 AMEND: 6452, 6452.2, 6452.4 (renumbered to 6881), 6890 (renumbered to 6864)
- 05/22/13 AMEND: 3434(b)
- 05/20/13 AMEND: 3434(b)
- 05/06/13 ADOPT: 1350 AMEND: 1354
- 04/16/13 AMEND: 3435(b)
- 04/04/13 AMEND: 3435(b)
- 04/02/13 AMEND: 3435(b)

Title 4

- 08/06/13 ADOPT: 2086, 2086.1, 2086.5, 2086.6, 2086.7, 2086.8, 2086.9, 2087, 2087.5, 2087.6, 2088, 2088.6, 2089, 2089.5, 2089.6, 2090, 2090.5, 2090.6, 2091, 2091.5, 2091.6, 2092, 2092.5, 2092.6, 2093
- 07/31/13 AMEND: 12357, 12463, 12464
- 07/25/13 AMEND: 5170, 5190, 5205, 5212, 5230, 5250
- 07/22/13 AMEND: 8072
- 07/22/13 AMEND: 10322, 10325, 10326
- 07/08/13 ADOPT: 5342, 5343, 5344, 5345, 5346, 5347, 5348
- 06/03/13 AMEND: 12101, 12120, 12122, 12126, 12130, 12132, 12140, 12142, 12200, 12200.3, 12200.5, 12200.6, 12200.10B,

CALIFORNIA REGULATORY NOTICE REGISTER 2013, VOLUME NO. 34-Z

	12200.14, 12200.20, 12202, 12203, 12203A, 12203.2, 12203.3, 12205.1, 12218, 12218.7, 12218.8, 12218.9, 12220, 12220.3, 12220.5, 12220.6, 12220.14, 12220.20, 12222, 12223, 12225.1, 12233, 12235, 12238, 12239, 12301, 12301.1, 12302, 12303, 12304, 12305, 12309, 12310, 12342, 12345, 12349, 12350, 12351, 12352, 12354, 12357, 12358, 12359, 12370, 12372, 12401, 12402, 12403, 12404, 12464, 12480, 12492, 12496, 12500, 12503, 12505, 12508, 12591	08/13/13	ADOPT: 15209 AMEND: 15201, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496, 15497
06/03/13	AMEND: 5170, 5190, 5205, 5212, 5230, 5250	08/01/13	AMEND: 5199(g)(3)(B)
05/23/13	ADOPT: 12364 AMEND: 12004	07/23/13	AMEND: 1933, 5541, 5543, 5559, 5600, 6170
05/22/13	ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060	07/02/13	AMEND: 3329
05/16/13	AMEND: 10192, 10193, 10194, 10195, 10196, 10197, 10198	07/01/13	ADOPT: 9792.5.4, 9792.5.5, 9792.5.6, 9792.5.7, 9792.5.8, 9792.5.9, 9792.5.10, 9792.5.11, 9792.5.12, 9792.5.13, 9792.5.14, 9792.5.15.
05/16/13	ADOPT: 5255, 5256 AMEND: 5170, 5230, 5250, 5560, 5580		AMEND: 9792.5.1., 9792.5.3, 9793, 9794, 9795
05/03/13	AMEND: 1843.2	07/01/13	AMEND: 5197
05/02/13	AMEND: 1658	07/01/13	AMEND: 9795.1, 9795.3
04/23/13	AMEND: 8035(e)	07/01/13	ADOPT: 9785.5, 9792.6.1, 9792.9.1, 9792.10.1, 9792.10.2, 9792.10.3, 9792.10.4, 9792.10.5, 9792.10.6, 9792.10.7, 9792.10.8, 9792.10.9
04/08/13	ADOPT: 8035.5		AMEND: 9785, 9792.6, 9792.9, 9792.10, 9792.12
04/02/13	AMEND: 10032, 10033, 10034, 10035	07/01/13	ADOPT: 37, 10159 AMEND: 1, 11, 11.5, 14, 17, 30, 31.2, 31.7, 33, 35, 35.5, 36, 38, 100, 105, 106, 10160
03/21/13	AMEND: 10178, 10179, 10181, 10182, 10185, 10188	06/26/13	ADOPT: 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36 AMEND: 9813.1, 10116.9, 10117, 10118, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 REPEAL: 10133.51, 10133.52
03/20/13	AMEND: 1462	06/26/13	ADOPT: 10206, 10206.1, 10206.2, 10206.3, 10206.4, 10206.5, 10206.14, 10206.15, 10207, 10208 AMEND: 10205, 10205.12
Title 5		06/24/13	AMEND: 8352
08/12/13	AMEND: 58312	05/30/13	AMEND: 4994
08/12/13	AMEND: 80003, 80004, 80048.6	05/08/13	AMEND: 5004(d)(2)
07/10/13	AMEND: 80021.1, 80023, 80023.1, 80023.2, 80025.5 REPEAL: 80024.1, 80024.2, 80024.2.1, 80024.3.2, 80024.4, 80024.5	05/07/13	AMEND: 17000 Appendix
06/12/13	ADOPT: 19847 AMEND: 19816, 19816.1, 19818, 19824, 19829, 19837.3	05/06/13	AMEND: 1529, 1532, 1532.1, 1532.2, 1535, 5150, 5189, 5190, 5191, 5192, 5194, 5198, 5200, 5201, 5202, 5206, 5207, 5208, 5209, 5210, 5211, 5212, 5213, 5214, 5217, 5218, 5220, 8358, 8359
06/05/13	AMEND: 19816, 19816.1, 19839	04/24/13	AMEND: 2940.8
05/23/13	ADOPT: 30000.5, 30010, 30040, 30040.2, 30040.6, 30041, 30041.5, 30042, 30042.5, 30044.5 AMEND: 30000, 30001, 30002, 30005, 30009, 30020, 30021, 30022, 30030, 30032, 30033	04/15/13	AMEND: 354, 371.2, 373, 376.1, 386
05/14/13	ADOPT: 30737, 30738 AMEND: 30730, 30731, 30733, 30734, 30736	03/29/13	AMEND: 9789.31, 9789.34, 9789.35, 9789.39
05/01/13	AMEND: 80054	Title 9	
04/03/13	ADOPT: 41906.6	06/06/13	ADOPT: 14200, 14210, 14220, 14230, 14240
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08/13/13	ADOPT: 9795.1.5, 9795.1.6, 9795.5 AMEND: 9795.1, 9795.3		

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08/05/13 AMEND: 2498.5
 07/31/13 AMEND: 2498.6
 07/17/13 AMEND: 2498.5
 07/16/13 AMEND: 2498.6
 07/15/13 ADOPT: 6650, 6652, 6654, 6658, 6660,
6662, 6664, 6666, 6668, 6670
 07/10/13 ADOPT: 6410, 6420, 6422, 6424, 6440,
6442, 6444
 07/03/13 AMEND: 2548.3, 2548.19, 2548.21,
2548.24, 2548.25
 06/27/13 ADOPT: 6456
 06/25/13 AMEND: 2698.401
 06/13/13 ADOPT: 2594, 2594.1, 2594.2, 2594.3,
2594.4, 2594.5, 2594.6, 2594.7
 05/20/13 AMEND: 2698.95(a)
 05/13/13 AMEND: 2632.19
 03/29/13 REPEAL: 2690.65
 03/29/13 REPEAL: 2690.5
 03/29/13 REPEAL: 2690.6
 03/29/13 REPEAL: 2690.4
 03/29/13 ADOPT: 6426
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08/06/13 AMEND: 1955
 07/08/13 AMEND: 1005, 1007, 1008
 03/27/13 AMEND: 80.3

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07/31/13 AMEND: 1968.2, 1968.5, 1971.1,
1971.5
 07/24/13 AMEND: 599
 05/07/13 ADOPT: 426.00
 04/18/13 AMEND: 1956.8

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08/06/13 AMEND: 13055
 07/22/13 ADOPT: 18751.2.2, 18751.2.3 AMEND:
18751.2, 18751.2.1
 06/28/13 AMEND: 228
 06/26/13 AMEND: 1059(a)
 06/25/13 AMEND: 354, 360, 361, 362, 363, 364,
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 06/19/13 AMEND: 816.01(c)(3), 826.01(c)(2),
870.21(d)
 06/17/13 AMEND: 7.50
 04/29/13 AMEND: 27.80
 04/25/13 ADOPT: 709, 709.1
 04/12/13 AMEND: 1.74, 701
 03/27/13 ADOPT: 132.1, 132.2, 132.3, 132.4,
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 03/25/13 AMEND: 27.80
 03/25/13 ADOPT: 1667.1, 1667.2, 1667.3, 1667.4,
1667.5, 1667.6

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08/06/13 AMEND: 2000
 07/30/13 AMEND: 3075
 07/29/13 AMEND: 3000, 3190, 3213, 3334
 05/16/13 AMEND: 3173.2, 3174

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08/08/13 AMEND: 1920, 1937.11
 08/07/13 AMEND: 811, 832.05, 832.06, 832.35
REPEAL: 832.14, 854
 08/07/13 ADOPT: 1399.620, 1399.621, 1399.622,
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 08/07/13 AMEND: 1399.501, 1399.502,
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1399.507.5, 1399.511, 1399.512,
1399.520, 1399.521, 1399.521.5,
1399.523, 1399.523.5, 1399.526,
1399.527, 1399.530, 1399.540,
1399.543, 1399.545, 1399.547,
1399.557, 1399.570, 1399.571,
1399.572, 1399.610, 1399.612,
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 08/07/13 AMEND: 811, 832.05, 832.06, 832.35
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 08/07/13 ADOPT: 1399.620, 1399.621, 1399.622,
1399.623
 08/07/13 AMEND: 1399.501, 1399.502,
1399.503, 1399.506, 1399.507,
1399.507.5, 1399.511, 1399.512,
1399.520, 1399.521, 1399.521.5,
1399.523, 1399.523.5, 1399.526,
1399.527, 1399.530, 1399.540,
1399.543, 1399.545, 1399.547,
1399.557, 1399.570, 1399.571,
1399.572, 1399.610, 1399.612,
1399.616, 1399.617, 1399.618, 1399.619
REPEAL: 1399.512
 07/30/13 REPEAL: 367.7
 07/24/13 ADOPT: 1398.15
 07/23/13 AMEND: 2502, 2516, 2525, 2526,
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 07/16/13 AMEND: 4154
 07/15/13 ADOPT: 1355.45
 07/15/13 AMEND: 1833
 06/26/13 AMEND: 1600
 06/25/13 AMEND: 4102, 4114, 4122, 4141, 4163,
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 06/20/13 AMEND: 1379.50
 06/10/13 ADOPT: 5.5, 18, 19, 20, 21, 22 AMEND:
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 06/06/13 AMEND: 2006
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 05/08/13 AMEND: 1380.1
 05/02/13 ADOPT: 3340.17.1, 3340.17.2, AMEND: 3340.1, 3340.16, 3340.16.4, 3340.16.5, 3340.17, 3340.18, 3340.42, 3340.42.2, 3340.45, 3394.5
 04/22/13 AMEND: 2268.2, 2271
 04/16/13 ADOPT: 1364.50
 04/16/13 AMEND: 1132
 04/15/13 ADOPT: 1508, 1508.1, 1508.2, 1508.3
 04/10/13 ADOPT: 1149, 1150, 1151, 1152, 1153
 04/08/13 AMEND: 2614
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 03/25/13 ADOPT: 1823, 1888.1 AMEND: 1803, 1845, 1858, 1881

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08/12/13 AMEND: 2641.55
 08/12/13 ADOPT: 30456, 30456.1, 30456.2, 30456.4, 30456.6, 30456.8, 30456.10, 30456.12
 07/16/13 ADOPT: 7000, 7002, 7004, 7006, 7008, 7010, 7012, 7014, 7016
 07/01/13 AMEND: 100000
 06/26/13 AMEND: 91022
 06/26/13 AMEND: 1230, 2641.57
 06/24/13 ADOPT: 95943 AMEND: 95802, 95830, 95833, 95910, 95911, 95912, 95913, 95920, 95921, 95942, 96010, 96022
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 04/02/13 ADOPT: 54311 AMEND: 54302, 54310, 54314, 54320, 54326, 54332, 54370
 03/21/13 AMEND: 100303, 100403, 100603

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07/24/13 AMEND: 462.040
 07/16/13 AMEND: 4601, 4603, 4604, 4605
 07/11/13 AMEND: 1532, 1533.1, 1533.2, 1534, 1535, 1598
 06/25/13 ADOPT: 2000
 05/31/13 ADOPT: 17052.6
 05/28/13 AMEND: 1685.5

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07/17/13 AMEND: 557.4, 557.5, 557.8, 557.13, 557.23, 561.2, 567, 567.8, 573, 574.4, 575.1, 575.3, 575.6, 575.8, 575.13, 575.16, 577.2, 578.6, 591.6, 592.1, 592.2, 593.1, 594.3, 594.4, 594.5, 595.5 and 596
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04/18/13 ADOPT: 1680, 1681, 1682, 1683, 1684

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06/24/13 ADOPT: 2653, 2654, 2655, 2656, 2657, 2658

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05/30/13 AMEND: 70723, 71523, 71835, 72535, 73525, 74723, 75051, 75335, 76539, 76874, 76919, 78429, 79331, 79781, 79795, 79805
 05/22/13 ADOPT: 64651.12, 64651.13, 64651.15, 64651.48, 64651.52, 64651.54, 64651.61, 64651.62, 64654.8, 64656.5, 64664.2, 64665.5 AMEND: 63011, 63012, 63020, 63021, 63052, 64650, 64651.88, 64652, 64652.5, 64653, 64655, 64656, 64660, 64662, 64663, 64664, 64666 REPEAL: 64657, 64657.10, 64657.20, 64657.30, 64657.40, 64657.50
 05/15/13 ADOPT: 66274.1, 66274.2, 66274.3, 66274.4, 66274.5, 66274.7, 66274.8
 03/25/13 AMEND: 97232

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08/07/13 ADOPT: 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016
 08/07/13 ADOPT: 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016
 07/26/13 ADOPT: 3979.6
 07/03/13 AMEND: 595
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 06/24/13 ADOPT: 3919.13
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 06/03/13 AMEND: 5000
 04/25/13 AMEND: 2920
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03/27/13 ADOPT: 6932 REPEAL: 6932

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07/05/13 ADOPT: 1300.67.005
04/08/13 ADOPT: 1300.74.73

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