



California Regulatory Notice Register

REGISTER 2013, NO. 36-Z

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SEPTEMBER 6, 2013

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- School for Integrated Academics & Technologies (SIA Tech)
- Colton Joint Unified School District
- Peninsula Corridor Joint Powers Board
- Southern California Regional Liability Fund Joint Powers Authority
- Turlock Unified School District
- Metropolitan Transportation Commission

State Agency:

California Transportation Commission

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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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<p>PROPOSED ACTION ON REGULATIONS</p>
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**TITLE 2. CALIFORNIA
TRANSPORTATION COMMISSION**

**NOTICE OF INTENTION TO AMEND THE
CONFLICT OF INTEREST CODE OF THE
CALIFORNIA TRANSPORTATION COMMISSION**

NOTICE IS HEREBY GIVEN that the California Transportation Commission, pursuant to the authority vested in it by Section 87306 of the Government Code, proposes amendment 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 California Transportation Commission 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 newly designates the positions of Principal Transportation Engineer, Supervising Transportation Planner, and Supervising Transportation Engineer. The amendment also adds clarifying language and 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 21, 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 October 6, 2013 by contacting the contact person set forth below.

The California Transportation Commission 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 California Transportation Commission 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 California Transportation Commission 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 and less burdensome to affected persons than the proposed amendments.

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

Rosemary Mejia
1120 N Street, MS-52
Sacramento, CA 95814
(916) 654-4245
Rosemary_Mejia@dot.ca.gov

**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

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

CONFLICT-OF-INTEREST CODES

COST TO LOCAL AGENCIES

AMENDMENT

MULTI-COUNTY

AGENCY: School for Integrated Academics & Technologies (SIA Tech)
 Colton Joint Unified School District
 Peninsula Corridor Joint Powers Board
 Southern California Regional Liability Fund Joint Powers Authority
 Turlock Unified School District
 Metropolitan Transportation Commission

STATE AGENCY: California Transportation Commission

A written comment period has been established commencing on **September 6, 2013** and closing on **October 21, 2013**. Written comments should be directed to the Fair Political Practices Commission, Attention Barbara Smith, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

The Executive Director of the Commission, upon his/her or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **October 21, 2013**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

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

TITLE 2. DEPARTMENT OF JUSTICE

NOTICE IS HEREBY GIVEN that the Office of the Attorney General, pursuant to the authority vested in it

by sections 82011, 87303, and 87304 of the Government Code will review proposed amendments to the conflict of interest code of the Fair Political Practices Commission (hereinafter "Commission").

The Office of the Attorney General has established a written comment period closing on October 21, 2013, during which interested persons may comment on the proposed amendment of the Commission's conflict of interest code. Interested persons should direct their written statements, arguments, or comments concerning the proposed amendments to Deputy Attorney General Ted Prim, Office of the Attorney General, 1300 I Street, Sacramento, CA. 95814. Any written comments must be received no later than 5:00 p.m. on October 21, 2013.

At the end of the 45-day comment period, the proposed amendments to the conflict of interest code will be submitted to the Chief Deputy Attorney General for review, unless an interested person requests a public hearing no later than 15 days prior to the close of the written comment period. If a public hearing is requested, it will be conducted at 10:00 a.m. on October 22, 2013, by a designee of the Chief Deputy Attorney General at 1300 I Street, Sacramento, California. If this hearing is held, oral testimony will be accepted. Subsequent to the hearing, the proposed code will be submitted to the Chief Deputy for review.

The Chief Deputy Attorney General will review the above-referenced amendments to the Commission's conflict of interest code, proposed pursuant to Government Code section 87306, which designates, pursuant to Government Code section 87302, those Commission employees who must disclose certain investments, interests in real property, and income.

The Chief Deputy Attorney General, upon his or her own motion or at the request of an interested person, will approve, or revise and approve, or return the amendment to the Commission for revision and re-submission within 60 days without further notice.

The Department of Justice, Office of the Attorney General 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 Department of Justice, Office of the Attorney General has determined 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 and less burdensome to affected private persons than the proposed amendments.

AUTHORITY

Government Code sections 82011, 87303, and 87304 provide that the Office of the Attorney General is the code reviewing body for the Commission. The Chief Deputy Attorney General shall approve the code as submitted, revise the proposed code, and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

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

CONTACT PERSON

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

Deputy Attorney General Ted Prim
Office of the Attorney General
1300 I Street, Sacramento, CA 95814
Telephone (916) 324-5481

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODE

Copies of the proposed conflict of interest code may be obtained from the Attorney General's Office or the Fair Political Practices Commission. Requests for copies from the Commission should be made to Alexandra Castillo, 428 J Street, Suite 620, Sacramento, California 95814; Telephone (916) 322-5660. Requests for copies from the Attorney General's Office should be made to Ted Prim, Deputy Attorney General, 1300 I Street, Sacramento, CA 95814; Telephone (916) 324-5481.

**TITLE 10. DEPARTMENT
OF INSURANCE**

**September 30, 2013 — 10:00 a.m.
California Department of Insurance
San Diego Room
300 Capitol Mall, 2nd Floor
Sacramento, California 95814**

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING**

**2014 Workers' Compensation Insurance
Classification and Rating Rules**

File No. REG-2013-00013

Notice Date: August 26, 2013

**Proposed revisions to the Insurance Commission-
er's Regulations pertaining to the Classification of
Risks, Recording and Reporting of Data, Statistical
Reporting and Experience Rating to be effective
January 1, 2014 and January 1, 2015.**

NOTICE AND SUBJECT OF PUBLIC HEARING

Notice is hereby given that the Insurance Commissioner will hold a public hearing in response to a filing, submitted on August 9, 2013, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB") to consider the following:

- Approval of amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.
- Approval of amendments to the Miscellaneous Regulations for the Recording and Reporting of Data—1995 as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.
- Approval of amendments to the California Workers' Compensation Experience Rating Plan—1995 as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.

HEARING DATE AND LOCATION

A public hearing will be conducted to permit all interested persons the opportunity to present statements or arguments, verbally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

AUTHORITY AND REFERENCE

Uniform Plans and Regulations

The workers' compensation classification of risks and statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The miscellaneous regulations for the recording and reporting of data are set forth in Title 10, California Code of Regulations, Section 2354. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. These regulations are promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

INFORMATIVE DIGEST

Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as a statistical agent. As the designated statistical agent, the WCIRB collects insurer data and recommends revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995; the Miscellaneous Regulations for the Recording and Reporting of Data—1995; and the California Workers' Compensation Experience Rating Plan—1995 for approval. Adherence to the regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data—1995, and the California Workers' Compensation Experience Rating Plan—1995 is mandatory for insurers. However, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the Insurance Commissioner 30 days prior to its use and is not disapproved by the Insurance Commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with the California Workers' Compensation Uniform Statistical Reporting Plan—1995 or the standard classification system developed by the WCIRB and approved by the Insurance Commissioner.

The amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data—1995, and the California Workers' Compensation Experience Rating Plan—1995 are summarized below.

PROCEEDINGS NOT SUBJECT TO
ADMINISTRATIVE PROCEDURE ACT

The regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data—1995, and the California Workers' Compensation Experience Rating Plan—1995 pertain to the establishment of workers' compensation insurance rates. Government Code section 11340.9(g) states that the Administrative Procedure Act [Chapter 3.5 of the Government Code] shall not apply to regulations that establish or fix rates, prices, or tariffs, and the Office of Administrative Law has determined that these regulations are excluded from the requirements of the Administrative Procedure Act.

A public hearing for this matter is not required. Pursuant to section 11734 of the Insurance Code, only the Commissioner's approval is required. However, the Commissioner has elected to hold a public hearing this year. In the future, the Commissioner may elect to adopt changes to these rules without holding a hearing. In the event the Commissioner does adopt changes without a hearing, the public will have an opportunity to provide written comments which will be considered prior to such adoption. Upon conclusion of the public hearing, after consideration of any comments received, the Commissioner shall issue a final Order approving, disapproving, or modifying the Classification and Rating Rules proposed by the WCIRB.

ACCESS TO HEARING ROOMS

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

PRESENTATION OF ORAL AND/OR
WRITTEN COMMENTS

All persons are invited to submit written comments to the Insurance Commissioner prior to the public hearing on the proposed regulations contained in the WCIRB's filing. Such comments should be addressed to the following:

Christina Carroll
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Telephone: (916) 492-3283
FAX: (916) 324-1883
christina.carroll@insurance.ca.gov

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and verbal testimony will be given equal weight in the Insurance Commissioner's deliberations.

DEADLINE FOR WRITTEN COMMENTS

All written material, unless submitted at the hearing, must be received at the address, FAX number, or email address listed above no later than 5:00 p.m. on September 30, 2013. Additional time to submit written material may be allowed at the time of hearing, or may be granted on or before September 30, 2013, upon a showing of good cause.

AMENDMENTS TO THE CALIFORNIA
WORKERS' COMPENSATION UNIFORM
STATISTICAL REPORTING PLAN—1995

The WCIRB recommends that the following revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 become effective January 1, 2014 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2014, with one exception as noted below:

- Amend Part 1, Section 1, Introduction, Rule 3, Effective Date, for clarity and consistency.
- Amend Part 1, Section II, General Definitions, Rule 12, Final Premium(s), and Rule 13, Insurer Classification(s), for clarity and consistency.
- Amend Part 3, Standard Classification System, Section III, General Classification Procedures, Rule 4a, Clerical Office Employees, to include additional duties.
- Amend Part 3, Section IV, Special Industry Classification Procedures, Rule 2, Construction or Erection Work, to clarify the procedure applicable to dividing a single employee's payroll between two or more construction or erection classifications and for consistency.
- Amend Part 3, Section IV, Rule 2a(1), Records of Payroll, to provide for the use of collective bargaining agreements to validate an employee's hourly wage rate *for audits on policies with an expiration date on or after January 1, 2014.*

- Amend Part 3, Section IV, Rule 2, Subrule a(3)(a), Regular Hourly Wage Calculation, to provide that the regular hourly wage calculation is computed on a per period basis and for clarity and consistency.
- Amend Part 3, Section IV, to add Rule 3, Electronic Products Manufacturing, to clarify the classification procedure for manufacturers in the Electronics Industry Group, for consistency and to renumber the subsequent rules.
- Amend Part 3, Section IV, Rule 5, Subrule b, to clarify that, in addition to being determined based upon the type of merchandise sold, the applicable Store classification is also determined based upon the type of merchandise leased, consigned or auctioned; Subrule b(1), Type of Merchandise Sold, to provide that when the products sold by a store operation includes lottery tickets for games authorized by the California State Lottery, only that portion of the sales proceeds identified by the California State Lottery as commission shall be included in determining the percentage of gross receipts; and Subrule b(2), Wholesale vs. Retail, to clarify the classification procedure for showroom salespersons who sell exclusively from samples to buyers for stores.
- Amend Part 3, Section IV, Rule 5, to add Subrule c to provide that the incidental assembly and preparation of merchandise for sale shall be assigned to the store classification.
- Amend Part 3, Section IV, Rule 5, to add Subrule d to include the classification procedure for a repair department that is operated in connection with a store for clarity.
- Amend Part 3, Section IV, Rule 5, to renumber Subrule c to Subrule e, for clarity and amend to provide the classification procedure for stores that maintain a hot food preparation department.
- Amend Part 3, Section IV, Rule 5, to add Subrule f to direct that firms that operate mobile food trucks for the retail selling of packaged and cold foods shall be classified as Classification 8017(1), Stores — retail, and that the operation of mobile food trucks wherein hot food is prepared for sale to customers shall be classified as Classification 9079(1), Restaurants or Taverns — all employees, and renumber all subsequent rules.
- Amend Part 3, Section V, Payroll — Remuneration, Rule 1, Payroll — Remuneration, for consistency, and Subrule j, Executive Officers, Subrule k, Partners, Subrule 1, Individual Employers, and Subrule m, Members of a Limited Liability Company, to adjust the minimum and maximum payroll limitations for executive officers, partners, individual employers, and members of a limited liability company to reflect wage inflation since the minimum and maximum payroll limitations were last amended.
- Amend Part 3, Section VI, Administration of Classification System, Rule 1, Inspection of Employer's Premises, to eliminate the requirement that field inspectors not discuss their observations or provide information to the employer during the field inspection and for consistency.
- Amend Part 3, Section VI, Rule 4, Audit of Payroll, to eliminate the reference indicating that the pure premium rates are contained in the Uniform Statistical Reporting Plan and for clarity and consistency.
- Amend Part 3, Section VII, Standard Classifications, Rule 1, Classification Section, Subrule a, Industry Groups, to reflect the proposed establishment of Plastic Products Manufacturing as an industry group, and to change the reference to Appendix II, Construction and Erection Classifications, for consistency.
- Amend Classification 9016(1), Amusement Parks or Exhibitions — all employees other than those engaged in the operation or maintenance of merry-go-rounds, swings, roller coasters or other amusement devices and ticket collectors connected therewith, for clarity and consistency.
- Amend Classification 9180(1), Amusement Parks or Exhibitions — operation and maintenance of merry-go-rounds, swings, roller coasters or other amusement devices not specifically classified, for clarity and consistency.
- Amend Classification 9181, Athletic Teams or Parks — all players on the salary list of employer, whether regularly played or not, to increase the annual payroll limitation for players from \$106,600 to \$109,200 per year per person to reflect wage inflation since the payroll limitation was last amended.
- Amend Classification 7607(2), Audio Post Production — computer or electronic, to clarify that it includes post-production operations for the audio portion of motion pictures, including dubbing type work and incidental studio recording, when performed on a contract basis.

- Amend Classification 9522(3), Automobile Body Upholstering, to provide that this classification does not include automobile body manufacturing or assembly and that such operations shall be assigned to the appropriate manufacturing or assembly classification, or Classification 8390, Automobile Van Conversion or Customizing.
- Amend Classification 8391, Automobile or Automobile Truck Dealers — all employees other than vehicle salespersons, to provide that this classification includes the operations of automobile or automobile truck auctioneers.
- Amend Classification 8748, Automobile or Automobile Truck Dealers — vehicle salespersons, to provide that this classification includes the operations of automobile or automobile truck auctioneers.
- Amend Classification 8390, Automobile Van Conversion or Customizing — all operations, to provide that this classification includes estimators and customer service representatives who conduct visual inspections of vehicles.
- Establish Classification 9016(4), Boat Marina and Boat Rental Operation, for boat marina and boat rental operations.
- Amend Classification 8232(2), Building Material Dealers — commercial, to indicate that store operations shall be classified as 8017(7), Stores — hardware, in accordance with the provisions of the Multiple Enterprises rule, and for purposes of applying the Multiple Enterprises rule, the receipt of the payment for lumber purchases shall not be considered interchange of labor with the lumberyard.
- Amend Classification 5146(1), Cabinet or Fixtures — portable; interior trim, to provide that this classification also includes the assembly from prefabricated kits of wooden residential greenhouses and similar backyard structures, such as gazebos, play structures and hot tub enclosures.
- Amend Classification 2501(1), Clothing Mfg. — including embroidery manufacturing, to clarify that (1) this classification applies to clothing manufacturers that design garments even though some or all of the production sewing or assembling is subcontracted, (2) employers that do not manufacture or design the garments in California, but purchase garments for wholesale distribution, shall be classified as 8032, Stores — clothing, wearing apparel or dry goods — wholesale, and (3) clothing manufacturers that only maintain a distribution center in California shall be classified as 8032, Stores — clothing, wearing apparel or dry goods — wholesale.
- Amend Classification 9522(4), Coffin or Casket Upholstery Work, to provide that this classification does not include casket manufacturing or assembly and that such operations shall be assigned to the appropriate manufacturing or assembly classification.
- Amend Classification 5213, Concrete Construction — N.O.C., to (1) include the pouring of concrete foundations, retaining walls, basement walls and/or footings in connection with poured in place concrete, masonry and structural steel buildings, and the subsequent pouring of the concrete slabs and any concrete floors and decks above ground level; and (2) direct that the pouring or finishing of concrete floor slabs and concrete slab-type foundations for other than concrete buildings or structural steel buildings of multi-story construction, and the pouring or finishing of concrete foundations for private residences for occupancy by one or two families or other wood frame family dwellings not exceeding three stories in height, be separately classified as 5201(2)/5205(2), Concrete or Cement Work.
- Amend Classification 5201(2), Concrete or Cement Work — pouring or finishing of concrete floor slabs, poured in place and on the ground for other than concrete buildings or structural steel buildings of multi-story construction, to include the pouring or finishing of concrete slab-type foundations and nonstructural lightweight cellular concrete floors.
- Amend Classification 5205(2), Concrete or Cement Work — pouring or finishing of concrete floor slabs, poured in place and on the ground for other than concrete buildings or structural steel buildings of multi-story construction, to include the pouring or finishing of concrete slab-type foundations and nonstructural lightweight cellular concrete floors.
- Eliminate Classification 3724(3), Concrete Sawing or Drilling — N.O.C., which is an alternate wording to Classifications 3724(1), Millwright Work — N.O.C., and 3724(2), Electrical Machinery or Auxiliary Apparatus — installation or repair.
- Establish Classification 5029, Concrete Sawing or Drilling — N.O.C., for employers engaged in concrete sawing and drilling for other concerns on a contract basis.
- Amend Classification 8227, Construction or Erection Permanent Yards, for consistency.

- Amend Classification 5606, Contractors — construction or erection, to include management level employees such as safety managers, project managers and engineers, who are not in the direct chain of command over construction operations but whose duties include walking through a construction site during the construction phase, provided the insured retains two levels of supervision over the construction crew(s) or where all operations have been subcontracted to licensed subcontractors, and for consistency and clarity.
- Amend Classification 9059, Day Care Centers — child, to direct that this classification not be used for division of payroll with Classification 8875(1), Public Colleges or Schools — all employees.
- Amend Classification 5107, Door, Door Frame or Pre–Glazed Window Installation — not overhead doors, to clarify that the installation, service or repair of automatic door openers shall be separately classified as 9519(1), Household Appliances.
- Amend Classification 5108, Door Installation — overhead doors, to clarify that the installation, service or repair of automatic door openers shall be separately classified as 9519(1), Household Appliances.
- Amend Classification 2589, Dry Cleaning or Laundry — retail, to add a suffix, provide that this classification applies to those locations at which more than 50% of gross receipts is derived from the dry cleaning or laundering of garments, linens and other household items that are owned by the general public, and for clarity and consistency.
- Eliminate Classification 2586(1), Dry Cleaning or Dyeing — N.O.C.
- Establish Classification 2589(2), Dry Cleaning — N.O.C., to apply to employers engaged in dry cleaning that are not otherwise classified.
- Establish Classification 2585(2), Dyeing — including yarn or thread dyeing or finishing, to apply to employers engaged in dyeing.
- Amend Classification 3724(2), Electrical Machinery or Auxiliary Apparatus — installation or repair, for clarity and consistency.
- Amend Classifications 5190/5140, Electrical Wiring, to increase the hourly wage threshold from \$28.00 per hour to \$30.00 per hour based on the results of the WCIRB’s 2013 wage level study.
- Amend Classification 8601(1), Engineers — consulting, to direct that this classification applies to fee–based construction management firms that do not engage in or perform supervision over construction operations, but serve as an intermediary between the general contractor and project owner or otherwise provide expertise regarding a construction project.
- Amend Classification 8028(1), Equipment or Machinery Rental Yards — not dealers in new or used equipment, to provide examples of the types of machinery and equipment that are rented by employers assignable to this classification and to provide that the rental of mobile cranes and hoisting equipment with operators shall be classified as 7219(3), Mobile Crane and Hoisting Service Contractors.
- Establish Classification 9095, Event Market, Festival or Trade Show Operation — all employees, for operators of farmers’ markets, flea markets, swap meets, art and antique festivals, and trade shows.
- Amend Classifications 6218(1)/6220(1), Excavation — N.O.C., to increase the hourly wage threshold from \$26.00 per hour to \$30.00 per hour based on the results of the WCIRB’s 2013 wage level study and for clarity.
- Amend Classification 0035, Florists — cultivating or gardening, to clarify that (1) it applies to the cultivation or gardening of flowers, potted flower plants, ferns and similar potted plants that are sold for indoor decorative purposes; (2) employers engaged in the sale of cut flowers, potted flower plants, ferns and similar potted plants for indoor decorative purposes shall be classified as 8001, Stores — florists; and (3) employers engaged in the propagation and cultivation of nursery stock, bedding plants, bulbs and trees that are sold for outdoor planting or decorative purposes shall be classified as 0005, Nurseries.
- Amend Classification 3081(1), Foundries — iron, to provide that this classification includes the manufacture of foundry sand cores that are used in the employer’s foundry operations.
- Amend Classification 3085, Foundries — non–ferrous, to provide that this classification includes the manufacture of foundry sand cores that are used in the employer’s foundry operations.
- Amend Classification 3082, Foundries — steel castings, to provide that this classification includes the manufacture of foundry sand cores that are used in the employer’s foundry operations.

- Amend Classification 9522(2), Furniture — upholstery, to provide that this classification does not include furniture frame manufacturing or assembly and that such operations shall be assigned to the appropriate manufacturing or assembly classification.
- Amend Classifications 6315(2)/6316(2), Gas Mains or Connections Construction — including tunneling at street crossings, to increase the hourly wage threshold from \$26.00 per hour to \$30.00 per hour based on the results of the WCIRB’s 2013 wage level study.
- Amend Classifications 6218(2)/6220(2), Grading Land — N.O.C., to increase the hourly wage threshold from \$26.00 per hour to \$30.00 per hour based on the results of the WCIRB’s 2013 wage level study and for clarity.
- Amend Classification 8851, Congregate Living Facilities for the Elderly — no care or supervision, within the Health and Human Services Industry Group, to provide that employees common to separately classifiable operations be assigned to the Governing Classification, and for clarity and consistency.
- Amend Classification 8829(2), Convalescent Homes or Convalescent Hospitals — all employees, within the Health and Human Services Industry Group, to provide that this classification shall apply to those firms that provide 24-hour medical care to their residents.
- Amend Classification 9043, Hospitals — all employees, within the Health and Human Services Industry Group, to provide that (1) this classification applies to facilities that are licensed by the California Department of Public Health as a General Acute Care Hospital, Acute Psychiatric Hospital or Special Hospital; (2) a clinic that operates at a location separate from the hospital and does not provide 24-hour inpatient care shall be classified as 8834, Physicians; (3) hospitals operated by municipal, state or other public agencies shall be classified as 8830, Institutional Employees; and (4) hospitals operated in connection with jails or prisons shall be classified as 7720, Police, Sheriffs, Constables, Marshals, Animal Control Officers, Game and Fish Wardens, and Jailers.
- Amend Classification 8829(1), Nursing Homes — all employees, within the Health and Human Services Industry Group, to provide that this classification shall apply to those firms that provide 24-hour medical care to their residents.
- Amend Classification 9070(3), Residential Care Facilities for Adults — N.O.C., within the Health and Human Services Industry Group, to (1) remove the term “all employees”; (2) clarify the types of services provided by employers in this classification; (3) provide that an identifiable unit that is operated for the provision of congregate living services only (no care and supervision) be separately classified as 8851, Congregate Living Facilities; and (4) provide that employees common to separately classifiable operations be assigned to the Governing Classification.
- Amend Classification 9070(1), Residential Care Facilities for the Elderly — N.O.C. — all employees, within the Health and Human Services Industry Group, to (1) remove the term “all employees”; (2) clarify the types of services provided by employers in this classification; and (3) provide that employees common to separately classifiable operations be assigned to the Governing Classification.
- Amend Classification 8829(4), Rest Homes — all employees, within the Health and Human Services Industry Group, to provide that this classification shall apply to those firms that provide 24-hour medical care to their residents.
- Amend Classification 8829(5), Sanitariums — all employees, within the Health and Human Services Industry Group, to provide that this classification shall apply to those firms that provide 24-hour medical care to their residents.
- Eliminate Classification 2586(3), Hide or Fur Cleaning, Processing or Preserving.
- Amend Classification 9519(1), Household Appliances — electrical, to clarify that this classification also applies to the installation, service or repair of automatic door openers.
- Amend Classification 5102(1), Iron, Steel, Brass, Bronze or Aluminum Erection — non-structural, to provide that this classification also includes the erection of commercial or residential greenhouse or solarium metal framing, and the installation of pre-glazed windows or wall panels, but only if installed by the same employer who erects the metal framing at the same job or location.
- Amend Classifications 6218(3)–6220(3), Land Leveling — grading farm lands, to increase the hourly wage threshold from \$26.00 per hour to

- \$30.00 per hour based on the results of the WCIRB's 2013 wage level study.
- Amend Classification 0042, Landscape Gardening — all operations, to (1) include a description of the types of operations that are typically assigned to this classification; (2) direct that this classification applies when an employer that is primarily engaged in landscape work at a particular job or location also constructs decorative pools, fountains, drainage and sprinkler systems; and (3) direct that this classification does not include the pruning, repairing or trimming of large, mature trees when any portion of the operations requires elevation using ladders, lifts or by climbing and that such operations shall be classified as 0106, Tree Pruning, Repairing or Trimming.
 - Amend Classification 2585, Laundries — N.O.C., to (1) add a suffix; (2) provide that locations at which more than 50% of gross receipts are derived from the cleaning or laundering of garments, linens and other household items that are owned by the general public be classified as 2589(1), Dry Cleaning or Laundry — retail; and (3) provide that the dyeing of textile fabrics, not finished garments, be classified as 2413, Textiles.
 - Establish a cross-reference to indicate that Classification 3647(2), Lead Mfg., Reclaiming or Alloying, is listed under the Metal Working Classifications Industry Group.
 - Amend Classification 2702(1), Logging or Lumbering, to include “all kinds” of logging operations, and direct that log chipping and the subsequent transport of the chips be separately classified as 2710(2), Log Chipping.
 - Amend Classification 8232(1), Lumberyards — commercial, to indicate that store operations shall be classified as 8017(7), Stores — hardware, in accordance with the provisions of the Multiple Enterprises rule, and for purposes of applying the Multiple Enterprises rule, the receipt of the payment for lumberyard merchandise shall not be considered interchange of labor with the lumberyard.
 - Amend Classification 8267, Machinery and Equipment Dealers — secondhand, to provide examples of the types of secondhand machinery and equipment that are sold by employers assignable to this classification.
 - Amend Classification 8107, Machinery Dealers — N.O.C., to provide examples of the types of machinery that are sold by employers assignable to this classification.
 - Amend Classification 8028(2), Machinery or Equipment Rental Yards — not dealers in new or used machinery, to provide examples of the types of machinery and equipment that are rented by employers assignable to this classification and to provide that the rental of mobile cranes and hoisting equipment with operators shall be classified as 7219(3), Mobile Crane and Hoisting Service Contractors.
 - Amend Classification 3400, Metal Goods Mfg. — N.O.C., to include the definition of metal stamping and for clarity and consistency.
 - Move Classification 3647(2), Lead Mfg., Reclaiming or Alloying — including litharge and lead oxide manufacturing, to the Metal Working Classifications Industry Group.
 - Move Classification 3039, Reinforcing Steel Fabrication — shearing and bending, to the Metal Working Classifications Industry Group.
 - Amend Classification 7219(3), Mobile Crane and Hoisting Service Contractors — N.O.C., to (1) add a restrictive footnote indicating that, at a particular job or location, it should not be used for division of payroll in connection with any other classification (other than the Standard Exceptions or General Exclusions); and (2) clarify that it also applies to employers that rent mobile crane and hoisting equipment with operators.
 - Amend Classification 9610, Motion Pictures — production, to increase the annual payroll limitation for actors, musicians, producers and the motion picture directors from \$106,600 to \$109,200 per person to reflect wage inflation since the payroll limitation was last amended.
 - Amend Classification 9410, Municipal, State or Other Public Agency Employers — not engaged in manual labor, or direct supervision of construction or erections work, within the Municipal, State or Other Public Agencies Industry Group, to include meter readers other than water meter readers, and recreation and park department operations that are performed by recreation leaders, coaches, instructors, referees, and officials; daycare/babysitting; activity supervisors; and similar operations that do not involve manual labor.
 - Amend Classification 9420, Municipal, State or Other Public Agency Employees — all other employees, within the Municipal, State or Other Public Agencies Industry Group, to include park and facility maintenance, landscape, snack bar and vending operations, lifeguards, security, and similar activities in support of the facility, provide that this classification does not apply to park

security operations when performed by fish and game wardens or by park rangers, and for consistency.

- Amend Classification 0005, Nurseries — propagation and cultivation of nursery stock, to indicate that it applies to the propagation and cultivation of nursery stock, bedding plants, bulbs and trees that are sold for outdoor planting or decorative purposes, and employers engaged in the cultivating or gardening of flowers, potted flower plants, ferns and similar potted plants that are sold for indoor decorative purposes shall be classified as 0035, Florists.
- Amend Classification 9501(3), Painting — automobile or automobile truck bodies, to provide that this classification includes estimators, service writers and customer service representatives who conduct visual inspections of vehicles.
- Amend Classifications 5474(1)/5482(1), Painting, Decorating or Paper Hanging — including shop operations, to include incidental patching and surface preparation, and direct that wallboard taping, finishing or texturing be classified as 5446/5447, Wallboard Application.
- Amend Classification 7198(1), Parcel Delivery Companies — no handling of bulk merchandise or freight, to clarify that Classification 7219(1), Trucking Firms — N.O.C., shall apply if 10% or more of the delivered items are bulk merchandise or freight.
- Amend Classification 6233, Oil or Gas Pipeline Construction — all operations, within the Petroleum Industry Group, to include “all operations” for clarity and consistency.
- Amend Classifications 5484/5485, Plastering or Stucco Work, to increase the hourly wage threshold from \$25.00 per hour to \$27.00 per hour based on the results of the WCIRB’s 2013 wage level study.
- Establish an Industry Group for Plastic Products Manufacturing and amend the associated classifications for clarity.
- Amend Classifications 5183(1)/5187(1), Plumbing — shop and outside, to provide that the installation of automatic fire suppression sprinklers within buildings shall be separately classified and to increase the hourly wage threshold from \$24.00 per hour to \$26.00 per hour based on the results of the WCIRB’s 2013 wage level study.
- Amend Classification 4049(1), Potteries — glazed or porcelain, earthenware, to clarify that it includes the manufacture of foundry sand cores that are sold commercially.
- Amend Classification 8813(2), Bookbinding Operation — editing, designing, proofreading and photographic composing, within the Printing, Publishing and Duplicating Industry Group, to include the scope and a description of the activities.
- Amend Classification 8807, Newspaper, Magazine or Book Publishing — no printing or distribution, within the Printing, Publishing and Duplicating Industry Group, to include the scope and a description of the activities.
- Amend Classification 4304, Newspaper Publishing or Newspaper Printing — all other employees, within the Printing, Publishing and Duplicating Industry Group, to provide additional information pertaining to the scope of the classification.
- Amend Classification 8818, Newspaper Publishing or Newspaper Printing — editing, designing, proofreading, and photographic composing, within the Printing, Publishing and Duplicating Industry Group, to include the scope and a description of the activities.
- Amend Classification 4299(1), Printing Operation — all other employees, to include its scope, direct that Classification 8019(1), Printing — quick printing, applies to those locations at which job printing is exclusively performed with sheet-fed offset printing presses on paper not exceeding 18” x 24”, and to refer to the other printing classifications for clarity.
- Amend Classification 8813(1), Printing Operation — editing, designing, proofreading, and photographic composing, within the Printing, Publishing and Duplicating Industry Group, to include the scope and a description of the activities.
- Amend Classification 9011, Apartment or Condominium Complex Operation — N.O.C., within the Property Management/Operation Industry Group, to provide that on-site property managers are those employees who work at any property location where they are employed to manage, and the team “resident” refers to any employee who resides at a property managed by the employer.

- Amend Classification 8740(1), Apartment or Condominium Complex Operation — N.O.C., within the Property Management/Operation Industry Group, to provide that off-site property management supervisors are those employees who do not work at or from the properties being managed, and that such employees are based at and work from remote office locations and periodically travel to the property to perform supervisory and/or administrative duties.
- Amend Classification 9007, Apartment or Condominium Complex Operation for Seniors — age restricted, within the Property Management/Operation Industry Group, to provide that on-site property managers are those employees who work at any property location that they are employed to manage, and the term “resident” shall refer to any employee who resides at a property managed by the employer.
- Amend Classification 8740(6), Apartment or Condominium Complex Operation for Seniors — age restricted, within the Property Management/Operation Industry Group, to provide that off-site property management supervisors are those employees who do not work at or from the properties being managed, and that such employees are based at and work from remote office locations and periodically travel to the property to perform supervisory and/or administrative duties.
- Amend Classification 9015(1), Building Operation — N.O.C., within the Property Management/Operation Industry Group, to provide examples of the types of properties to which this classification applies, and clarify that resident or on-site property managers are those employees who work at any property location that they are employed to manage.
- Amend Classification 8740(3), Building Operation — N.O.C., within the Property Management/Operation Industry Group, to provide that off-site property management supervisors are those employees who do not work at or from the properties being managed, and that such employees are based at and work from remote office locations and periodically travel to the property to perform supervisory and/or administrative duties.
- Amend Classification 9010, Mobile Home Park Operation — all other employees, within the Property Management/Operation Industry Group, to provide that on-site property managers are those employees who work at any property location where they are employed to manage, and the term “resident” refers to any employee who resides at a property managed by the employer.
- Amend Classification 8740(4), Mobile Home Park Operation — property management supervisors, within the Property Management/Operation Industry Group, to provide that off-site property management supervisors are those employees who do not work at or from the properties being managed, and that such employees are based at and work from remote office locations and periodically travel to the property to perform supervisory and/or administrative duties.
- Amend Classification 8290 Warehouses — self-storage, within the Property Management/Operation Industry Group, to provide that on-site property managers are those employees who work at any property location where they are employed to manage, and the term “resident” refers to any employee who resides at a property managed by the employer.
- Amend Classification 8740(5), Warehouses — self-storage, within the Property Management/Operation Industry Group, to provide that off-site property management supervisors are those employees who do not work at or from the properties being managed, and that such employees are based at and work from remote office locations and periodically travel to the property to perform supervisory and/or administrative duties.
- Amend Classification 7610, Radio, Television or Commercial Broadcasting Stations — all employees, to increase the annual payroll limitation for players, entertainers or musicians from \$106,600 to \$109,200 per person to reflect wage inflation since the payroll limitation was last amended.
- Amend Classifications 5183(2)/5187(2), Refrigeration Equipment, to increase the hourly wage threshold from \$24.00 per hour to \$26.00 per hour based on the results of the WCIRB’s 2013 wage level study.
- Establish a cross-reference to indicate that Classification 3039, Reinforcing Steel Fabrication, is listed under the Metal Working Classifications Industry Group.
- Amend Classification 9079(1), Restaurants or Taverns — all employees, to provide that this classification also applies to the operation of mobile food trucks where hot food is prepared for sale to customers.

- Amend Classifications 6307/6308, Sewer Construction, to (1) increase the hourly wage threshold from \$26.00 per hour to \$30.00 per hour based on the results of the WCIRB's 2013 wage level study; (2) include the construction of monolithic or concrete pipe storm drains and catch basins; and (3) include the installation of septic tanks.
- Amend Classification 3066(1), Sheet Metal Products Mfg. — N.O.C., to include the definition of metal stamping.
- Amend Classifications 5538/5542, Sheet Metal Work — erection, installation or repair, to increase the hourly wage threshold from \$25.00 per hour to \$27.00 per hour based on the results of the WCIRB's 2013 wage level study.
- Amend Classification 8032, Stores — clothing, wearing apparel or dry goods — wholesale, within the Stores Industry Group, to clarify that Classification 2501(1), Clothing Mfg. — including embroidery manufacturing, applies to clothing manufacturers that design garments even though some or all of the production sewing or assembling is subcontracted.
- Amend Classification 8001, Stores — florists, within the Stores Industry Group, to provide that the cultivating or gardening of flowers, potted flower plants, ferns and similar potted plants that are sold for indoor decorative purposes shall be separately classified as 0035, Florists.
- Amend Classification 7365, Taxicab Operations — all employees, to increase the minimum annual payroll per taxicab from \$29,800 per year to \$30,500 to reflect wage inflation since the threshold was last amended.
- Amend Classification 7601, Telephone, Telegraph or Fire Alarm Line Construction, to describe aerial line construction operations, and provide that underground line construction be classified as 6325, Conduit Construction.
- Amend Classification 9156, Theaters — dance, opera and theater companies, to increase the annual payroll limitation for performers and directors of performers from \$106,600 to \$109,200 per person to reflect wage inflation since the payroll limitation was last amended.
- Amend Classification 9151, Theaters — music ensembles, to increase the annual payroll limitation for performers and directors of performers from \$106,600 to \$109,200 per person to reflect wage inflation since the payroll limitation was last amended.
- Amend Classification 9522(1), Upholstering, to provide that this classification does not include frame manufacturing or assembly and that such operations shall be assigned to the appropriate manufacturing or assembly classification.
- Amend Classifications 5446/5447, Wallboard Application — within buildings, to (1) include the installation of non-structural metal stud wall framing when performed by the same employer that subsequently installs the wallboard at a particular job or location; (2) include wallboard taping and texturing whether performed by the same employer that subsequently installs the wallboard or by a specialty contractor; and (3) provide that the application of veneer plaster over installed wallboard shall be separately classified as 5484/5485, Plastering or Stucco Work.
- Amend Classifications 6315(1)/6316(1), Water Mains or Connections Construction — including tunneling at street crossings, to increase the hourly wage threshold from \$26.00 per hour to \$30.00 per hour based on the results of the WCIRB's 2013 wage level study.
- Amend Classification 9522(5), Wheelchair Upholstering, to provide that this classification does not include wheelchair manufacturing or assembly and that such operations shall be classified as 3076(6), Wheelchair Mfg.
- Eliminate Classification 2586(2), Yarn or Thread Dyeing or Finishing — no yarn or thread manufacturing.
- Amend Section VIII, Abbreviated Classifications — Numeric Listing, for consistency.
- Amend Part 4, Unit Statistical Report Filing Requirements, to require electronic submission of unit statistical reporting data in accordance with the Workers Compensation Insurance Organizations (WCIO) Workers Compensation Statistical Reporting Specifications (WCSTAT), to remove references to hard copy reporting, make conforming changes for consistency with WCSTAT, move all definitions to Section II, Definitions, eliminate the special reporting instructions for the reporting of foreign construction or erection projects and clarify the reporting of supplemental job displacement vouchers in accordance with the Labor Code as amended by Senate Bill No. 863 (2012).
- Eliminate Appendix I, Pure Premium Rate Section — Effective January 1, 2013, as the pure premium rates will be published upon receipt of the pure premium rate filing decision and renumber all subsequent appendices.

- Amend Appendix II, Construction and Erection Classifications, for consistency.
- Amend Appendix III, Payroll/Remuneration Table, and the Private Residence Employees entry for clarity and consistency.
- Eliminate Appendix IV, Unit Statistical Report, as the WCIRB will no longer be accepting hard copy unit statistical reports.
- Eliminate Appendix V, Required Loss Fields for Particular Injury Types and Types of Claims, as this information is already contained in the Plan.

The WCIRB recommends that the following revisions to the California Workers' Compensation Uniform Statistical Reporting Plan — 1995 become effective January 1, 2015 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2015:

Amend Part 2, Policy Document Filing Requirements, to provide greater clarity, create efficiencies and ensure consistency with the WCPOLS requirements.

AMENDMENTS TO MISCELLANEOUS REGULATIONS FOR THE RECORDING AND REPORTING OF DATA—1995

The WCIRB recommends that the following revisions to the Miscellaneous Regulations for the Recording and Reporting of Data — 1995 become effective January 1, 2014 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2014:

- Amend Part 1, General Provisions, Section I, Introduction, Rule 2, Effective Date, for clarity and consistency.
- Amend Part 2, Workers' Compensation Forms and Coverage, Section III, Additional Interests, to clarify that a joint venture is an "employer" for purposes of this rule, and that a member of a joint venture is not to be included as an additional insured employer on a policy issued to the joint venture and that a joint venture may be added as an additional insured employer on a policy of a member of the joint venture so long as the extension of coverage to the joint venture is limited to apply only as respects the employees of such member.
- Amend Part 3, Group Workers' Compensation Insurance, Section II, Procedure for Obtaining Approval of Group Workers' Compensation Insurance, for clarity as to the information and documents that must be provided for approval of new and renewal group policies.

AMENDMENTS TO CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN—1995

The WCIRB recommends that the following revisions to the California Workers' Compensation Experience Rating Plan—1995 become effective January 1, 2014 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2014:

- Amend Section I, General Provisions, Rule 2, Effective Date, for clarity and consistency.
- Amend Section II, Definitions, Rule 10, Pure Premium Rates, to eliminate the statement that pure premium rates are contained in the Uniform Statistical Reporting Plan.
- Amend Section III, Eligibility and Experience Period, Rule 1, Eligibility Requirements for California Workers' Compensation Insurance, to indicate that the experience rating eligibility threshold approved by the Insurance Commissioner will be separately published by the WCIRB.
- Amend Section III, Rule 3, Experience to be Used for Rating California Workers' Compensation Insurance Risks, Subrule g, to remove the exception and cross-reference to Part 3, Section VI, Rule 4, Audit of Payroll, of the Uniform Statistical Reporting Plan for consistency.
- Amend Section III, Rule 5, Self-Insurers' Data, to (1) reference the appropriate form for submission of self-insured data to the WCIRB, (2) confirm that self-insured data is subject to all the rules of the Experience Rating Plan, Miscellaneous Regulations and the Uniform Statistical Reporting Plan, (3) state that an experience modification will not be promulgated with partial self-insured data, and (4) confirm that any claims that are open on the original report must be revalued and subsequent reports submitted in accordance with the Uniform Statistical Reporting Plan and for clarity.
- Amend Section VI, Tabulation of Experience, Rule 4, Losses, and Rule 6, Contract Medical Losses, to reflect that the rating values currently included in Table II and Table III will in the future be separately published by the WCIRB upon approval by the Commissioner.
- Amend Section VI, Rule 4, Losses, Subrule h, Rule 9, "S" Claims (Closed Compromise Death Claims), Rule 12, Closed Claims, Subrule a, and Rule 13, Revision of Losses, Subrule b, for consistency with proposed changes to Part 4 of the Uniform Statistical Reporting Plan.

- Amend Section VII, Rating Procedure, Rule 2, Credibility Primary (Cp) Value, Rule 4, Actual Excess (Ae) Losses, Rule 5, Credibility Excess (Ce) Value, and Rule 7, Expected (E) Losses, to reflect that the rating values currently included in Table II and Table III will be published by the WCIRB upon approval by the Commissioner.
- Eliminate Table I — Primary Values of Actual Losses, as it is no longer necessary.
- Eliminate Table II — Expected Loss Rates and Full Coverage D-Ratios, as these values will be published upon receipt of the pure premium rate decision.
- Eliminate Table III — Credibility Primary and Credibility Excess Values, as these values will be published upon receipt of the pure premium rate decision.

The WCIRB recommends that the following revisions to the California Workers' Compensation Experience Rating Plan—1995 become effective January 1, 2015 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2015:

- Amend Section VII, Rating Procedure, Rule 8, Experience Modification Formula, to limit experience modifications for employers with only a single claim in the experience period to be no more than 25 percentage points above the experience modification the employer would have received if loss free during the experience period, with the exception of experience modifications computed excluding unaudited payroll pursuant to Section III, Rule 3(g).

TEXT OF REGULATIONS AND ACCESS TO RULE-MAKING FILE

The Commissioner has prepared an informative digest included in this Notice that sets forth a summary and the reasons for the proposed regulations. Upon request to the contact persons above, the text of the proposed regulations shall be made available for inspection and copying.

The file for this action, which includes a copy of the proposed regulations, the WCIRB's filing, and any supplemental information, is contained in the Rulemaking File: REG-2013-00013 and is available for inspection and copying by prior appointment at 300 Capitol Mall, 17th Floor, Sacramento, California 95814, between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday.

The express terms of the proposed regulations as contained in the WCIRB's filing may also be viewed or

downloaded from the Regulatory Filings section of the WCIRB website: www.wcirb.com.

WEBSITE POSTINGS

Documents concerning these proposed regulations are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find at the right-hand side of the page the heading 'QUICK LINKS.' The third item in this column under this heading is 'For Insurers'; on the drop-down menu for this item, select 'Legal Information.' When the 'INSURERS: LEGAL INFORMATION' screen appears, click the third item in the list of bulleted items near the top of the page: 'Proposed Regulations.' The 'INSURERS: PROPOSED REGULATIONS' screen will be displayed. Select the only available link: 'Search for Proposed Regulations.' Then, when the 'PROPOSED REGULATIONS' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To browse, click on the "Currently Proposed Regulations" link. A list of the names of regulations for which documents are posted will appear. Find in the list the link to "2014 Workers' Compensation Insurance Rating Rules" and click it. Links to the documents associated with these regulations will then be displayed.

To search, enter "REG-2013-00013" (the Department's regulation file number for these regulations) in the search field. Alternatively, search by keyword ("workers' compensation insurance rating rules" for example). Then, click on the 'Submit' button to display links to the various filing documents.

AUTOMATIC MAILING

A copy of the proposed regulations and this Notice will be sent to all persons who have previously filed a request to receive notice of proposed rulemaking with the Commissioner.

APPROVAL OF REGULATIONS

Following the hearing, the Insurance Commissioner may approve regulations substantially as described in this Notice and informative digest, or he may approve modified regulations or decline to approve the regulations. Notice of the Insurance Commissioner's action will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the Commissioner's action.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code § 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by OCTOBER 21, 2013, at 5:00 p.m.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-6932 or by letter to the:

Commission on POST
 1601 Alhambra Boulevard
 Sacramento, CA 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes.

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code § 13503 — POST powers and § 13506 — POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code § 13503 (e) — POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

At its July 16, 2013 meeting, the Commission approved proposed amendments to Learning Domains throughout the *Training and Testing Specifications for*

Peace Officer Basic Courses publication. The proposed changes included:

- Update Training and Testing Specification curriculum as part of an ongoing review.

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers. This proposed action will update the training specifications to include revisions to grammar, punctuation, definitions, and minimum training standards.

The benefits anticipated by the proposed amendments to the regulations will be to update the training specifications for Peace Officer Basic Courses which will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

During the process of developing these regulations and amendments, POST has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

All changes to curriculum begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and subject matter experts who provide recommended changes to existing curriculum. The completed work of all committees is presented to the POST Commission for final review and adoption. Upon adoption of the proposed amendments, academies and course presenters will be required to teach and test the updated curriculum. The proposed effective date is February 1, 2014.

LOCAL MANDATE

This does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES

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

COSTS OR SAVINGS TO STATE AGENCIES

POST anticipates no additional costs or savings to state agencies.

BUSINESS IMPACT/SMALL BUSINESSES

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code §11342.610, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

**ASSESSMENT REGARDING EFFECT ON
JOBS/BUSINESSES**

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in the state of California.

**RESULTS OF ECONOMIC IMPACT
ASSESSMENT PER GOVERNMENT CODE
SECTION 11346.3**

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses or create or expand businesses in the state of California.

The proposed amendments of regulations will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

**COST IMPACT ON REPRESENTATIVE PRIVATE
PERSONS OR BUSINESSES**

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

EFFECT ON HOUSING COSTS

None.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

Please direct inquiries or written comments about the proposed regulatory action to the following:

Cheryl Smith
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
(916) 227-0544 or Cheryl.Smith@post.ca.gov
FAX (916) 227-6932

or

Patti Kaida
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
(916) 227-4847 or Patti.Kaida@post.ca.gov
FAX (916) 227-5271

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at: 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST Website at: <http://www.post.ca.gov/regulatory-actions.aspx>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person named above.

TITLE 13. AIR RESOURCES BOARD

**NOTICE OF PUBLIC HEARING TO
CONSIDER A PROPOSED REGULATION FOR
STATE IMPLEMENTATION PLAN CREDIT
FROM MOBILE AGRICULTURAL EQUIPMENT**

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider a proposed adoption of a regulation for *State Implementation Plan Credit from Mobile Agricultural Equipment*.

DATE: October 24, 2013

TIME: 9:00 a.m.

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

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., Thursday, October 24, 2013, and may continue at 8:30 a.m., on Friday, October 25, 2013. This item may not be considered until October 25, 2013. Please consult the agenda for the hearing, which will be available at least 10 days before October 24, 2013, to determine the day on which this item will be considered.

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

Sections Affected: Proposed adoption of California Code of Regulations, title 13, section 2428.

Documents Incorporated by Reference: “2011 Carl Moyer Program Guidelines” (approved April 28, 2011); “2008 Carl Moyer Program Guidelines” (approved March 27, 2008); and “2005 Carl Moyer Program Guidelines” (approved November 17, 2005)

Background and Effect of the Proposed Rulemaking:

In 2007, the San Joaquin Valley Air Pollution Control District (SJVAPCD) developed a State Implementation Plan (SIP) to meet the 0.08 parts per million (ppm) 8-hour ozone standard by 2023. The 2007 SIP, which was approved by the United States Environmental Protection Agency (U.S. EPA) in December 2011, contains a measure by ARB to propose a regulation for mobile agricultural equipment in the San Joaquin Valley, which is comprised of the counties within the SJVAPCD, including San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings Counties, as well as the western portion of Kern County. Specifically, the ap-

proved 2007 SIP includes a goal to achieve emissions reductions of 5 to 10 tons per day of oxides of nitrogen (NOx) in the San Joaquin Valley by 2017 in order to accelerate air quality progress.

ARB incentive-based air quality programs are designed to achieve near- and long-term emission reductions through investments in cleaner technologies. These programs include the Carl Moyer Program, Assembly Bill 118 Air Quality Improvement Program (AQIP), and Proposition 1B (Goods Movement and Lower-Emission School Bus Programs). Each of these programs addresses specific air quality priorities, such as the early replacement of older vehicles and engines with newer, cleaner engines and the development and deployment of advanced technology vehicles and equipment. The success of these programs helps California accelerate progress toward achieving health-based air quality standards, prevents federal sanctions such as the loss of federal highway funds, and assists businesses with equipment upgrades prior to regulatory requirements (with cost-sharing to leverage private funding for all projects).

In particular, since 1998 ARB’s Carl Moyer Program has funded the extra capital cost of cleaner-than-required vehicles and equipment to help achieve air pollution reductions that are both early and surplus to regulations. Funds for the Carl Moyer Program include tire replacement and vehicle registration (smog abatement) fees. The Carl Moyer Program provides incentives to private and public agencies to voluntarily clean up older, dirtier vehicles and mobile off-road engines through retrofit or replacement. ARB develops statewide implementation guidelines, distributes funds to air districts and conducts periodic oversight. Air districts choose which project types to fund from a variety of eligible categories, including on-road and off-road vehicles and equipment, marine, shore power, locomotives, stationary agriculture pumps, emergency equipment, lawn and garden equipment, and light duty vehicle scrap. Funded projects must achieve early or extra emission reductions not otherwise required by law or regulation. SJVAPCD (like other large and medium-sized air districts) contributes match funds as required by the Carl Moyer Program.

SJVAPCD has partnered with ARB from the beginning of the Carl Moyer Program, and has used the Carl Moyer Program as a model for other local funded programs. As demonstrated through multiple reviews and audits, SJVAPCD’s incentive programs are highly efficient and effective. SJVAPCD’s voluntary incentive programs fund cleaner-than-required engines and

equipment and are a crucial component of the SJVAPCD's efforts to reduce emissions and meet air quality standards. Since the adoption of the 2007 SIP, the agricultural industry has worked collaboratively with the SJVAPCD and the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS) to procure and expend federal, state and local funds to reduce pollution by accelerating the turnover of older, dirtier mobile agricultural equipment with the cleanest available technologies, which for mobile agricultural equipment is primarily comprised of Tier 3 and cleaner off-road engines. U.S. EPA has provided guidance on incorporating voluntary measures, such as these incentive programs, into SIPs. To meet U.S. EPA criteria for SIP creditability of incentive funded projects, the emission reductions must be surplus, quantifiable, enforceable, and permanent.

In 2010, SJVAPCD, ARB, NRCS, and U.S. EPA signed a Statement of Principles to work collaboratively to develop a mechanism to provide SIP credit for investments made in the San Joaquin Valley by the agriculture industry to clean up mobile agricultural equipment through local, state, and federally funded incentive programs. This regulatory action is the outcome of this Statement of Principles.

Arising from the Statement of Principles, SJVAPCD developed *Rule 9610 State Implementation Plan for Emission Reductions Generated Through Incentive Programs* (Rule 9610) that was approved by their Governing Board on June 20, 2013. Rule 9610 provides administrative requirements for local, state, and federal voluntary incentive programs in the San Joaquin Valley to ensure that emission reductions will be eligible to receive SIP credit.

The Proposed Regulation for *State Implementation Plan Credit from Mobile Agricultural Equipment* would complement Rule 9610 by providing an administrative mechanism to ensure that incentive-funded mobile agricultural equipment projects implemented using the Carl Moyer Program Guidelines and administered by SJVAPCD result in emission reductions that are eligible to receive SIP credit.

Overall, both the ARB regulation and Rule 9610 combined would ensure that all SIP creditable emission reductions from incentive-funded mobile agricultural equipment projects (regardless of funding source) are coordinated and accounted for. This proposed regulation would also provide for an opt-in for any other air district in California that complies with the requirements of the proposed regulation; the opt-in district's local rule must have mobile agricultural equipment emission reductions resulting from incentive programs that follow the Carl Moyer Program Guidelines to be eligible to be considered for SIP credit.

Description of the Proposed Regulatory Action, Objective, and Benefits:

Proposed Regulatory Action:

To be eligible for SIP credit, ARB's proposed regulation requires that mobile agricultural equipment incentive projects follow the Carl Moyer Program Guidelines. To ensure accountability, ongoing program reviews and audits by the air district will be required to verify project data, application information, emission reductions, destruction verification, and retention of application, inspection, destruction, and other project-related documentation consistent with the Carl Moyer Program Guidelines.

Carl Moyer Program emission reductions are surplus, quantifiable, enforceable, and permanent, and are consistent with U.S. EPA guidance for SIP creditability of incentive funded projects. This proposed regulation would also allow an opt-in for any other air district in California that complies with the requirements of the proposed regulation to have mobile agricultural equipment emission reductions that result from incentive programs that follow the Carl Moyer Program Guidelines be eligible to be considered for SIP credit.

Objective: Administrative Mechanism for State Implementation Plan Credit for Incentive Plans Following Carl Moyer Program Guidelines:

This proposed rulemaking provides an administrative mechanism to ensure emission reductions from voluntary incentive programs implemented following the Carl Moyer Program Guidelines are eligible for SIP credit and can be used towards meeting a SIP commitment. The proposed regulation is intended to complement SJVAPCD's Rule 9610, which provides administrative requirements on local, state, and federal voluntary incentive programs in the San Joaquin Valley to ensure that emission reductions will be eligible to receive SIP credit.

Benefits:

The proposed regulation ensures that ARB will meet the 2007 SIP commitment to bring to the Board a measure for mobile agricultural equipment in the San Joaquin Valley. Staff estimates that the emission reductions that will be eligible for SIP credit as a result of the proposed regulation will meet the 2007 SIP goal for NOx emission reductions of 5 to 10 tons per day by 2017 to accelerate clean air progress.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulatory action, ARB has conducted a search of any simi-

lar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations.

STATE IMPLEMENTATION PLAN REVISION

If adopted, ARB plans to submit the proposed regulatory action to U.S. EPA for approval as a revision to the California SIP required by the federal Clean Air Act (CAA). The adopted regulatory action would be submitted as a SIP revision because it adopts regulations intended to reduce emissions of air pollutants in order to attain and maintain National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to the CAA.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Proposed Regulation for State Implementation Plan Credit from Mobile Agricultural Equipment.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on Wednesday, October 9, 2013.

Final Statement of Reasons Availability

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

Agency Contact Persons

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Ms. Lynsay Carmichael, Resources Engineer, at (916) 322-0407 or Mr. Tim Hartigan, Air Pollution Specialist, at (916) 324-0202.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board staff

has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2013/sipmobileag2013/sipmobileag2013.htm>.

DISCLOSURES REGARDING THE PROPOSED REGULATION

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

Fiscal Impact / Local Mandate

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would create no administrative costs to ARB, SJVAPCD, or other opt-in air districts by implementing the regulation. The expenses represent no additional workload to current administrative activities and therefore are covered through normal administration budgets. The proposed regulatory action would not create costs or savings to any other State agency, or in federal funding to the State, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to State or local agencies.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete

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

Cost Impacts on Representative Private Persons or Businesses

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Results of The Economic Impact Analysis/ Assessment Prepared Pursuant to Government Code Sec. 11346.3(b)

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

Benefits of the Proposed Regulation:

The objective of the proposed regulation is to provide an administrative mechanism to ensure emission reductions from mobile agricultural equipment. Voluntary incentive programs implemented by SJVAPCD following the Carl Moyer Program Guidelines are eligible for SIP credit and can help meet the 2007 SIP goal of reducing NOx emissions in the San Joaquin Valley by 5 to 10 tons per day by 2017 to accelerate air quality progress. Other California air districts that opt-in per the requirements of the proposed regulation would also be eligible for SIP credit for mobile agricultural equipment voluntary incentive programs that follow the Carl Moyer Program Guidelines.

Effect on Small Business

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the regulated party, SJVAPCD or Districts that opt-in, does not fall under the category of “small business.”

Housing Costs

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

Alternatives

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Staff considered two alternatives to the proposed regulation. One alternative considered was “No Regulation,” that is, refrain from establishing a mechanism for mobile agricultural equipment voluntary incentive pro-

grams and projects to demonstrate emission reductions that can be eligible to receive SIP credit. The second alternative considered was a “Require Turnover to New Technology” alternative that requires the mobile agricultural fleet in the San Joaquin Valley to turn over to the cleanest technology by a set compliance schedule. A more detailed analysis of the alternatives considered for the regulation can be found in *ISOR Chapter VI, Economic Impacts*.

Environmental Analysis

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

WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the meeting and may provide comments by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on **Monday, September 9, 2013**. To be considered by the Board, written comments not physically submitted at the meeting, must be submitted on or after **Monday, September 9, 2013** and received **no later than 12:00 noon on Wednesday, October 23, 2013**, and must be addressed to the following:

- | | |
|-----------------------|---|
| Postal mail: | Clerk of the Board,
Air Resources Board
1001 I Street,
Sacramento, California
95814 |
| Electronic submittal: | http://www.arb.ca.gov/lispub/comm/bclist.php |

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

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

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board members have additional time to consider each comment. The Board encourages

members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

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

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 39001, 39003, 39500, 39515, 39516, 39600, 39601, 39602, 39602.5, 39659, 43000, 43000.5, and 44291. This action is proposed to implement, interpret, and make specific sections 39002, 39515, 39516, 39600, 39601, 39602, 39602.5, 39650, 39656, 39657, 39658, 39659, 43000, 43000.5, and 43018.

HEARING PROCEDURES

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

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

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

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

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

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

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

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

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

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER MINOR MODIFICATIONS TO THE ZERO EMISSION VEHICLE REGULATION

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider minor proposed amendments to the California Zero Emission Vehicle (ZEV) regulation.

DATE: **October 24, 2013**

TIME: 9:00 a.m.

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

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., **October 24, 2013**, and may continue at 8:30 a.m., on **October 25, 2013**. This item may not be considered until October 25, 2013. Please consult the agenda for the hearing, which will be available at least 10 days before October 24, 2013, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION
AND POLICY STATEMENT OVERVIEW
PURSUANT TO GOVERNMENT CODE
11346.5(a)(3)

Sections Affected: Proposed amendments to California Code of Regulations, title 13, sections 1962.1 and 1962.2, and proposed amendments to “California Exhaust Emission Standards and Test Procedures for 2009 through 2017 Model Zero–Emission Vehicles and Hybrid Electric Vehicles, in the Passenger Car, Light–Duty Truck, and Medium–Duty Vehicle Classes,” as adopted December 17, 2008, and as last amended December 6, 2012, which is incorporated by reference in section 1962.1, title 13, California Code of Regulations, and “California Exhaust Emission Standards and Test Procedures for 2018 and Subsequent Model Zero–Emission Vehicles and Hybrid Electric Vehicles, in the Passenger Car, Light–Duty Truck, and Medium–Duty Vehicle Classes,” as adopted March 22, 2012, and as last amended December 6, 2012, which is hereby incorporated by reference in section 1962.2, title 13, California Code of Regulations.

Background and Effect of the Proposed Rulemaking:

In January 2012, the ARB approved the Advanced Clean Cars program, which included increased ZEV requirements through 2025 model year, and the next generation of light duty greenhouse gas (GHG) and criteria pollutant emission standards (LEV III). This historic program combined the control of smog–causing pollutants and GHG emissions into a single coordinated package of requirements for model years 2017 through 2025 and assured the development of environmentally superior cars that will continue to deliver the performance, utility, and safety vehicle owners have come to expect. The Board approved subsequent minor amendments to the Advanced Clean Car program in November 2012, and a final EPA waiver was granted in January 2013.

Due to a compressed schedule, staff was not able to make additional minor modifications before the regulation was finalized in December 2012. Staff is returning to the Board with minor amendments to effectuate an agreement between the Section 177 states¹ and regulated manufacturers, add provisions to ensure ZEVs are delivered for sale in California every year, modify the fast refueling definition, and add conforming and clarifying language where needed.

¹Section 177 of the federal Clean Air Act allows other states to adopt California motor vehicle emission standards including the ZEV regulation.

Objectives and Benefits of the Proposed Regulation:

Staff’s proposal addresses four minor problems, while still maintaining the Board’s commitment to a strengthened ZEV regulation:

1) Adjusts the optional Section 177 state compliance path as committed to by the Section 177 states and the manufacturers.

In 2012, the Board approved a new optional provision which allowed manufacturers to produce extra ZEVs in the section 177 states prior to model year 2018. In exchange for these extra ZEVs, manufacturers gain the ability to pool credits across state lines within and between two Regional pools. Additionally, manufacturers would also be allowed to comply with a reduced transitional zero emission vehicles (TZEV) and ZEV portion of their requirement in certain model years. This provision was put in place to smooth the transition into 2018 and subsequent model year requirements, and ensure ZEVs were placed in the section 177 states prior to 2018 model year. Manufacturers and the section 177 states helped draft language, which was finalized in 2012.

Since adoption, manufacturers and Section 177 states have continued discussions surrounding this provision, and have requested a number of changes to ensure its success. Staff is proposing to exclude the use of transportation system credits for meeting the additional ZEV percentages in each of the Section 177 states in model years 2016 and 2017. This modification will help ensure those additional percentages are met with credits from actual vehicles. Staff is also proposing to allow manufacturers on the optional compliance path to trade and transfer 2012 through 2017 model year ZEV and TZEV credits within and between each Regional pool.² This means that, for example, a manufacturer could use 2012 through 2015 model year credits to meet a 2015 model year obligation.

Staff is also proposing to remove the requirement to provide vehicle identification numbers (VIN) for TZEVs prior to 2018 model year and substitute a requirement that manufacturers provide VINs for ZEVs and TZEVs upon request. Lastly, staff is proposing to simplify the provision specifying what happens when a manufacturer elects the optional Section 177 state compliance path, but fails to comply with any or all of the requirements.

²Two Regional pools were created for the purpose of this provision: the West Region pool and East Region Pool. States west of the Mississippi River, excluding California, make up the West Region pool, and states east of the Mississippi River make up the East Region pool.

2) Maintains a minimum ZEV credit requirement, regardless of model year and use of non-ZEV credits earned in the regulation.

Various caps on use of credits from special flexibility provisions have been put in place over iterations of the regulation to ensure manufacturers are still required to produce ZEVs. However, staff found that there was no clear direction for how to apply these caps in combination to meet ZEV requirements. For example, a large volume manufacturer is subject to the following caps when meeting its 2018 model year minimum ZEV requirement:

- Extended Range Battery Electric Vehicle (BEVx) Credits: No more than 50% of minimum ZEV requirement³

- GHG-ZEV Over-compliance Credits: No more than 50% of minimum ZEV requirement⁴
- Transportation System Credits from ZEVs: No more than 10% of minimum ZEV requirement

Staff is now proposing an overall 50% cap when a manufacturer uses credits (other than pure ZEV credits) in combination to meet its minimum ZEV requirement in any given model year.

3) Modify fast refueling definition to exclude range accumulation through battery exchange.

Adopted in 2001, ZEVs with the ability to refuel to 95% of full capacity within 15 minutes are allowed to earn more credit, under the Type IV and Type V ZEV definitions. Below is a summary of each ZEV type definition and credit level.

	Definition	2012–2014 Credit Level	2015–2017 Credit Level
<i>Type IV ZEV</i>	200+ mile range, and fast refueling capable	5	5
<i>Type V ZEV</i>	300+ mile range, and fast refueling capable	7	9

Some BEVs have been qualifying under the fast refueling definition by means of battery exchange. However, it has not been publically demonstrated that battery exchanges have occurred on the vehicles earning credits. Though staff does recognize the potential for a battery exchange to help market the vehicle, other vehicles earning Type IV and V ZEV credit depend on fast refueling for vehicle operation and success. Staff is proposing to remove battery exchange from qualifying under the fast refueling definition, starting in 2015 model year.

Resulting from the amendments proposed, manufacturers will benefit from greater flexibility in complying with the regulations, while the Board will benefit from a maintained ZEV credit requirement each year Staff is also proposing minor clarifying, grammatical, and numbering corrections.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulatory action, ARB has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

MANDATED BY FEDERAL LAW OR COMPARABLE FEDERAL REGULATIONS

This regulation is not mandated by federal law or regulations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and

³CCR, Title 13, Section 1962.2(g)(6)(B).

⁴CCR, Title 13, Section 1962.2(g)(6)(C)(3).

environmental impacts of the proposal, and all information upon which the proposed regulation is based. The report is entitled: “2013 Minor Modifications to the Zero Emission Vehicle Regulation.”

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB’s website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322–2990, on September 4, 2013.

Final Statement of Reasons Availability

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

Agency Contact Persons

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Anna Wong, Air Pollution Specialist, (916) 323–2410 or Elise Keddie, ZEV Implementation Section Manager, (916) 323–8974.

Further, the agency representative and designated back-up contact person, to whom non-substantive inquiries concerning the proposed administrative action may be directed is Amy Whiting, Regulations Coordinator, (916) 322–6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB’s website for this rulemaking at <http://www.arb.ca.gov/regact/2013/zev2013/zev2013.htm>.

DISCLOSURES REGARDING THE
PROPOSED REGULATION

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

Fiscal Impact / Local Mandate

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency or

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

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability To Compete

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

Cost Impacts on Representative Private Persons or Businesses

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Statement of the Results of the Economic Impact Assessment Prepared Pursuant to Government Code Sec. 11346.3(b)

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the ISOR.

Benefits of the Proposed Regulation:

The objective of the proposed amendments is to make minor amendments to effectuate an agreement between the Section 177 states and regulated manufacturers, add provisions to ensure ZEVs are delivered for sale in California every year, modify the fast refueling definition, and add conforming and clarifying language where needed. Further, compliance with ZEV regulation will create a positive impact on emission benefits, and as a result, will benefit the air quality of the state’s environment.

A summary of these benefits is provided. Please refer to “Objectives and Benefits”, under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion.

EFFECT ON SMALL BUSINESS

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because small businesses are not regulated parties under these regulations.

HOUSING COSTS

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

BUSINESS REPORT

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

ALTERNATIVES

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

ENVIRONMENTAL ANALYSIS

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

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the meeting and may provide comments by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on September 9, 2013. To be considered by the Board, written comments not physically submitted at the meeting, must be submitted on or after September 9, 2013 and received **no later than 12:00 noon on October 23, 2013**, and must be addressed to the following:

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

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

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

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

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

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

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 39600, 39601, 43013, 43018, 43101, 43104 and 43105. This action is proposed to implement, interpret, and make specific sections 38562, 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43018.5, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43205, 43205.5 and 43206.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act,

Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

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

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

SPECIAL ACCOMMODATION REQUEST

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

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

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

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

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

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

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Section 423.00, in Chapter 1, Division 1, Article 6, of Title 13 in the California Code of Regulations to identify the annual adjustment of specified fees for 2014.

PUBLIC HEARING

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

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., October 21, 2013, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code sections 1651, 1678 and 1685, in order to implement, interpret or make specific Vehicle Code sections 1678, 1685, 4604, 5014, 5036, 6700.25, 9102.5, 9250.8, 9250.13, 9252, 9254, 9258, 9261, 9265, 9702, 11515, 11515.2, 14900, 14900.1, 14901, 14902, 38121, 38225.4, 38225.5, 38232, 38255, 38260 and 38265; Code of Civil Procedure section 488.385; and Revenue and Taxation Code section 10902.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Since January 1, 2005, Vehicle Code sections 1678 and 1685 require the department to annually review and adjust a variety of department fees. The fees are adjusted in an amount equal to the increase in the Califor-

nia Consumer Price Index (CPI) for the prior year as calculated by the Department of Finance. A fee is only increased when the calculated amount equals or is greater than \$0.50, rounded to the next highest whole dollar.

The department proposes to amend Section 423.00 to identify the Vehicle Code sections that authorize each

fee identified in Vehicle Code section 1678 that is proposed to be increased, the date each fee increase is effective and the amount of each adjusted fee. These fees would become effective January 1, 2014.

The following charts list all fee changes effective January 1, 2014.

Vehicle Code Section	Fee	Current Fee	New Fee eff. (1/1/14)
9250.13(a)(1)	California Highway Patrol Fee	\$19	\$20
14900(a)	Noncommercial driver license application for original class C or M	\$32	\$33
14900.1(a)	Noncommercial driver license — renewal or change of class	\$32	\$33
14901	Duplicate noncommercial driver license or name change of a noncommercial and commercial driver license	\$26	\$27
14902(a)	Identification card regular	\$27	\$28
15255.1(a)	Commercial driver license — original	\$68	\$70
15255.1(b) and (c)	Commercial driver license — renewal	\$40	\$41
15255.2	Commercial driver license — duplicate	\$30	\$31

This proposed regulatory action benefits the public fee payers who will have access to the department’s current fee structure provided in the regulations, but other agencies such as the California Highway Patrol, the Department of Transportation and various local agencies that rely on those fees will be able to continue running efficiently.

There are no effects on existing law as this regulation implements the fee changes from the annual review and adjustment of departmental fees under Vehicle Code sections 1678 and 1685.

CONSISTENCY/COMPATIBILITY WITH EXISTING STATE OR FEDERAL REGULATIONS

In its review of related regulations, the department determined that these are the only regulations concerning fees implemented by the Department of Motor Vehicles, therefore, this proposed regulatory action is neither inconsistent nor incompatible with existing state or federal regulations.

DOCUMENTS INCORPORATED BY REFERENCE

There are no documents to be incorporated by reference.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

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

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The department is required by statute to adjust specific

fees based on the California Consumer Price Index for the prior year, as calculated by the Department of Finance. Eight fees are proposed to be increased by one dollar (\$1) or two dollars (\$2).

- Effects on Housing Costs: None.
- Local Agency/School District Mandates: The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Small Business Impact: The proposed regulatory action may affect small business.
- Potential Significant Statewide Adverse Economic Impact: The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department states the following results of its Economic Impact Assessment per Government Code section 11346.3(b):

- Creation or Elimination of Jobs Within the State of California
This proposed regulation will neither create nor eliminate jobs within the State of California.
- Creation or Elimination of Existing Business Within the State of California
The proposed regulation will neither create new business nor eliminate existing business within the State of California.
- Expansion of Businesses Currently Doing Business Within the State of California
This regulation will not expand business currently doing business within the State of California.
- Benefits of Regulation to the Health and Welfare of California Residents, Worker Safety and the State's Environment
The proposed regulatory action is not likely to impact worker safety or the environment, however, the health and welfare of California residents may be positively impacted by the continued operation of the state's programs that are driven by these fees.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

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

ALTERNATIVES CONSIDERED

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

CONTACT PERSON

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

Catherine Sowell, Chief of Staff
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820

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

Telephone: (916) 657-6469
Facsimile: (916) 657-6243
E-Mail: LRegulations@dmv.ca.gov

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

Brian G. Soublet, Assistant Chief Counsel
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express

Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

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

AVAILABILITY OF MODIFIED TEXT

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

TITLE 16. BOARD OF BEHAVIORAL SCIENCES

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (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:

Board of Behavioral Sciences
1625 N. Market Blvd.
El Dorado Room, Suite 220
Sacramento, CA 95834
October 22, 2013
10:00 a.m.–11:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact

Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on October 21, 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 the authority vested by Sections 4980.60 and 4990.20 of the Business and Professions Code (B&P Code), and to implement, interpret or make specific Sections 4980.54, 4989.34, 4996.22, and 4999.76 of the B&P Code, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations as described in this Notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations outline a process by which the Board of Behavioral Sciences (Board) approves providers of continuing education (CE) for its licensees. Approved providers must ensure that course content is relevant to the practice of the licensees, is related to direct or indirect patient care, and must ensure instructors have specified qualifications.

Over the past several years, an increasing number of concerns have been raised regarding the Board's CE approval process. Therefore, the Board voted at its November 2011 meeting to form a two-member committee to review and discuss the Board's current CE provider requirements and compare them to other models of continuing education. During 2012, the Continuing Education Provider Review Committee met several times and ultimately proposed solutions to the following areas of concern:

1. Board-Approval Method for Continuing Education

Currently, the Board has no authority to *approve* individual CE courses. Instead, it may only approve CE providers. This created concern, as once a provider was approved by the Board, the provider could change its coursework.

Many Boards within DCA accept courses provided through “sponsors” approved by specified accrediting entities. These accrediting entities establish stringent requirements for CE provider applicants, including administrative and financial accountability, program development and implementation criteria, and establish performance measures for determining program effectiveness. Many of these accrediting entities also perform periodic reviews of approved “sponsors.”

By accepting CE from “sponsors” approved by an accrediting entity, boards are not involved in the approval or maintenance of the CE “sponsors.” Rather, the board relies on the accrediting entity’s standards to ensure the quality of CE provided to licensees.

The proposed amended language would remove the Board’s authority to directly approve CE providers. This language establishes the Board’s authority to accept CE credits from providers who have been approved or registered by a Board-recognized “approval agency” or by an organization, institution, association or entity that has been recognized by the Board as a continuing education provider. Essentially, this change in the regulation will entrust the review and approval of CE providers, coursework and instructors to professional associations and other entities recognized by the Board.

2. Review of Coursework/Content

Courses and content offered by a CE Provider are not currently Board approved; a provider is approved based on the content of courses and qualification of instructors presented in the initial application package. Providers are not required to inform the Board of any changes in courses offered or any new courses added. Providers are also not required to inform the Board of any new instructors.

Under the newly proposed language, the Board will not be directly approving CE providers. However, the suggested language will give the Board authority to audit coursework and providers. The approving agency and the provider must be able to deliver the specific coursework and provider material when requested by the Board. This language will also give the Board authority to revoke the approving agencies’ Board recognition if they fail to ensure that the providers that they approve meet the requirements of the Board.

3. Self-Study Versus Online Learning

In 2003, the Board amended the definition of CE courses found in 16 CCR Section 1887 to include courses offered through online education, which was previously included in the definition of a “self-study course.” This change allowed licensees to effectively gain all CE hours through online means, while self-study courses are limited to 18 hours. There has been much confusion for staff and licensees taking online courses (unlimited amount of hours credited) and how they differ from self-study courses (18-hour limit).

The committee conducted extensive discussions regarding the definition and applicability of self-study versus online learning. It was decided that self-study limitations should be removed. The amended language would now allow licensees to gain their required CE credits through any course format.

4. CE Credit for Examination Development

Examination development is an integral part of the Board’s licensure program and it is imperative that the Board continues to have a competent and committed pool of subject matter experts (SMEs). In fiscal year 2011–12 the Board facilitated approximately fifty-seven examination development workshops. While the Board does not currently give CE credit for SME participation in examination development, both the Dental Board and Psychology Board give CE credit for participation in examination development.

Under the proposed language, licensees will be able to obtain up to six hours of CE credits every renewal period for participating in a Board examination development workshop, attending board enforcement case review training, acting as a subject matter expert for board enforcement case reviews, or participating in a professional association’s ethics review committee process. This CE credit may only be applied to the law and ethics portion of the CE requirement.

Amend Sections 1887, 1887.2, 1887.3, 1887.4, 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, 1887.13, 1887.14, and 1887.15 — Phase out the Board’s Current Continuing Education Provider Approval Program

These sections comprise the Board’s current continuing education provider approval program. Transition language has been amended in these sections in order to allow the Board to transition to the new continuing education program currently proposed. The effective date of the new CE program is six months after the effective date of these regulations, once the Office of Ad-

ministrative Law (OAL) approves them and sets the effective date. In addition, providers with an active Board-issued CE provider number may continue to provide CE until their provider number expires.

Policy Statement Overview: Adoption of this proposed amendment will benefit licensees seeking continuing education courses, and it will also benefit CE providers, as both parties will have a six month transition period before the new CE requirements become effective. It will allow providers currently licensed by the Board time to register and gain approval for CE programs through a Board-accepted approval agency, if needed. In the meantime, providers with an active Board-issued CE provider number may continue to provide CE until their provider number expires. These provisions will allow licensees time to locate acceptable CE providers and obtain the necessary coursework, and will ensure an adequate number of providers during the transition process.

Add Section 1887 — Definitions for Board’s New Continuing Education Program

This section replaces the previous section 1887, which defined terms under the previous continuing education provider approval program. It defines a continuing education “provider” and a continuing education “approval agency,” which are two new terms signifying to licensees that courses from these entities are acceptable toward the Board’s continuing education requirements for licensure. This new section would become effective six months after the OAL-determined effective date of this regulatory proposal, which is consistent with the phase-in discussed above.

Policy Statement Overview: Adoption of this proposed amendment will benefit licensees and continuing education providers and approval entities, by making it clear which entities may approve Board-required continuing education coursework.

Amend Sections 1887.1 and 1887.2 — Removal of Obsolete Language

Effective January 1, 2012, the Board’s Licensed Educational Psychologist (LEP) licensees were required to complete continuing education to maintain licensure. This was not previously required. Therefore, the Board implemented a transition program, so that LEP licensees renewing right after the continuing education requirement took effect would not be unduly burdened by having to suddenly complete 36 hours of continuing education with very little notice.

This transition period is over, and therefore the transition language included in these sections is now obsolete.

Policy Statement Overview: Adoption of this proposed amendment will benefit LEP licensees, by re-

moving obsolete language that could potentially be confusing because it no longer applies.

Add Sections 1887.2 and 1887.3 — Removal of Self-Study Limitations on Continuing Education Coursework

These sections replace the previous sections 1887.2 and 1887.3, which limited CE earned through self-study courses to no more than nine hours prior to the first license renewal, and eighteen hours thereafter.

During the CE committee process, the Committee had extensive discussions about the suitability of self-study versus online coursework for continuing education. Online coursework currently has no hour limitation. The Committee decided that there is no reason to limit self-study coursework.

The new sections would become effective six months after the OAL-determined effective date of this regulatory proposal, which is consistent with the phase-in discussed above.

Policy Statement Overview: Adoption of this proposed amendment will benefit licensees, especially those in rural areas with little access to courses or conferences, by removing the limitation on self-directed study for continuing education.

Add Section 1887.3 — Removal of Obsolete Language and Addition of New Methods of Obtaining Continuing Education

This section replaces the previous section 1887.3, which discussed continuing education course requirements and included an allowance for a licensee teaching a CE course to receive a specified amount of CE course credit.

This new section preserves the credit for teaching a CE course, and also adds additional methods by which a licensee can obtain some CE course credits. It allows a licensee to obtain specified amounts of CE credit for attending the Board’s enforcement case review training, acting as a Board subject matter expert for an enforcement case review, participating in a Board examination development workshop, or participating in a professional organization’s law and ethics review committee.

This section also removes obsolete language describing the LEP CE transition program that was discussed above.

This new section would become effective six months after the OAL-determined effective date of this regulatory proposal, which is consistent with the phase-in discussed above.

Policy Statement Overview: Adoption of this proposed amendment will benefit licensees by allowing them an interactive, hands-on approach to stay current on law and ethics and enforcement issues. It will benefit the Board and professional associations by providing an

incentive for licensees to participate in their examination development and discipline programs. It will also benefit the public by allowing licensees to obtain real-life training in law and ethics matters. Finally, it will benefit LEP licensees by removing obsolete language that is no longer effective and therefore is potentially confusing.

Add Section 1887.4 — Continuing Education Course Content

This section replaces the previous section 1887.4, which required Board-licensed CE providers to ensure the content of their courses were related to the practice of the profession of their target audience, and be related to direct or indirect patient care. Concerns were raised that this regulation was overly broad, and opened the door to courses covering subjects which contained content which were of questionable relevance, or unethical practices, but allowed the Board no authority to reject such practices as long as they fell under the broad guidelines of direct or indirect patient care.

During the CE committee process, the Committee worked extensively to outline new course criteria that would eliminate the danger of irrelevant or unethical courses being offered. Some of the new, more specific, key course requirements are as follows:

- The course must be based on methodological, theoretical, research or practice knowledge base;
- Has been supported using established research procedures; and
- Is related to ethical/legal policies, guidelines, and standards that impact each related practice.

This new section would become effective six months after the OAL-determined effective date of this regulatory proposal, which is consistent with the phase-in discussed above. The old version of Section 1887.4 has been amended to apply only to those with a Board-issued CE provider number. This allows it to remain in effect while the Board-issued CE provider numbers are being phased out.

Policy Statement Overview: Adoption of this proposed amendment will benefit consumers, because it ensures that Board licensees will not be studying unsupported or unethical practices as part of their Board-required continuing education. It will also benefit licensees, as they will not unknowingly be taking CE courses that advocate unethical practice or practice methods that are not backed up by research.

Add Section 1887.4 — Board-Recognized Approval Agencies

This new section adds language and criteria for an entity to be a Board-recognized approval agency. It lists several entities that are recognized by the Board to approve CE providers. It also establishes strict criteria that

must be met to become a Board-recognized approval agency. This criteria is designed to ensure public protection from practices being taught that are unproven or unethical. Some of this criteria is as follows:

- The entity is an organization that represents a licensed health care profession;
- The entity has a documented code of ethics; and
- The entity has the capacity to evaluate the courses of its providers.

This new section also adds language giving the Board the authority to revoke its approval of the entity as a CE provider, if the entity is not complying with the Board's requirements.

This new section would become effective six months after the OAL-determined effective date of this regulatory proposal, which is consistent with the phase-in discussed above.

Policy Statement Overview: Adoption of this proposed amendment will benefit consumers by ensuring that entities that will be approving CE courses have strict guidelines and criteria in place, and that the Board has authority to take action if the criteria are not being met. This will help eliminate the possibility that CE courses will contain unproven or unethical content.

Add Section 1887.42 — Responsibilities of Board-Recognized Approval Agencies

This new section adds language outlining the responsibilities of a Board-recognized approval agency. These responsibilities include evaluating each CE provider, responding to complaints from the Board, and conducting periodic reviews of courses. The responsibilities were designed to ensure public protection from unethical or ineffective practices.

This new section would become effective six months after the OAL-determined effective date of this regulatory proposal, which is consistent with the phase-in discussed above.

Policy Statement Overview: Adoption of this proposed amendment will protect consumers by ensuring that entities that will be approving CE courses have clear responsibilities, and authority to review providers' courses and take action if providers are not in compliance with course content requirements. This will help eliminate the possibility that CE courses will contain unproven or unethical content.

Add Section 1887.43 — Responsibilities of Continuing Education Providers

This new section adds language describing persons or entities that may provide continuing education coursework. It specifies several organizations, which represent Board licensees, that are directly recognized by the Board as being able to provide CE courses without being approved by an approval agency.

This section also outlines the responsibilities of an entity providing CE coursework, including ensuring the courses meet certain criteria, ensuring courses do not discriminate against any group, ensuring courses are consistent with ethical standards of the approval agency or organization, and ensuring courses do not promote any discriminatory modes of treatment. In addition, this section gives an approval agency and the Board the right to audit course material.

This new section would become effective six months after the OAL-determined effective date of this regulatory proposal, which is consistent with the phase-in discussed above.

Policy Statement Overview: Adoption of this proposed amendment will protect consumers by ensuring that entities providing CE courses meet certain criteria, and will not be advocating harmful or discriminatory methods of treatment. It also gives the Board the authority to review providers' courses and take action if providers are not in compliance with requirements. This will help eliminate the possibility that CE courses will contain unproven or unethical content.

Add Section 1887.11 — Records of Course Completion

This section replaces the previous section 1887.11, which requires the CE provider to issue a licensee, upon completion of a CE course, a record of course completion containing certain information.

This new section preserves all provisions of the previous section 1887.11, but adds a new requirement that the record of course completion must contain the approval agency provider information, or name of the Board-recognized provider offering the course.

This new section would become effective six months after the OAL-determined effective date of this regulatory proposal, which is consistent with the phase-in discussed above. Language has been added to apply the old Section 1887.11 to only those providers with a Board-issued CE provider number, ensuring it remains effective for those providers during the transition period.

Policy Statement Overview: Adoption of this proposed amendment will benefit licensees, by making it clear what information is required to be on a record of course completion, and ensuring that the required items listed in regulations are consistent and current with the new CE regulation program.

Add Section 1887.15 — Transition Period for Continuing Education Program

This section adds language specifying certain details of the CE program transition period, including the date on which the Board will no longer accept Board-approved CE provider applications, when the Board will cease CE provider renewals, and the time period

during which Board licensees may submit CE credits from discontinued providers.

Policy Statement Overview: Adoption of this proposed amendment will benefit CE providers, because it will give them time to gain approval from a Board-recognized approval agency, rather than requiring they cease practice before they can even attempt to gain that approval. It will benefit licensees by ensuring that an adequate supply of CE providers remains available while the CE provider requirements are in transition, which allows them to continue to obtain the CE courses required of them.

Forms Incorporated by Reference

This proposed rulemaking makes changes to one form that is incorporated by reference that is currently used by the Board:

- Section 1887.7: Continuing Education Provider Application, Form 1800 37A-633 (Rev. 03/10). The new revision date is 1/11. No material changes were made to this form, however, the formatting of the instructions was changed slightly, and the instructions had been placed on Board letterhead.

Policy Statement Overview: The changes to this form are not material, and are for clarity and consistency purposes only.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, the Board of Behavioral Sciences has determined that these are the only regulations that deal with the subject area of the Board's continuing education program. Therefore, the Board finds that these proposed regulations are consistent and compatible 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:

The Board currently charges three fees related to continuing education providers:

- An application fee for Board approval as a CE provider: \$200
- A biennial renewal fee for a CE provider: \$200; and
- A delinquency fee (if renewal is late): \$100

The Board currently has approximately 2,604 approved CE providers. Under this proposed program, these providers will need to seek approval from other entities, as the Board will no longer be approving CE

providers. Therefore, the Board will no longer be able to collect the fees listed above.

Attachment B of the STD 399 outlines the revenue loss from no longer being able to collect these fees. To determine an estimated revenue loss, the Board averaged revenue received for each fee over the past three fiscal years. The estimated revenue loss to the Board per fiscal year is \$277,133.

The Board has a staff person dedicated to the CE program, including approving and renewing CE providers, and conducting licensee audits. Due to very limited staff resources and a large workload, this person currently spends much of her time approving and renewing CE providers, and is unable to dedicate as much time as the Board would like to conduct CE audits.

Upon implementation of the new CE regulations, the duties of the CE Analyst (SSA position) will shift. This person will no longer be processing CE provider applications (PCE applications). Therefore, more time will be spent on CE audits of licensees, increasing public protection by ensuring that Board licensees are keeping current with developments in their field of practice.

Currently, the CE analyst position is only able to perform about 480 audits per year. This is less than 1% of renewing licensees (approximately 55,000 licensees are up for renewal each year).

Under the new CE program established by these regulations, the CE analyst will be able to audit an estimated 750 licensees per year. This is a 57% increase from the number of audits currently being done, and brings the audit total to about 1.4% of renewing licensees per year. This increased focus on audits is essential to consumer protection, as recent audits have revealed that about 16% of licensees are not compliant with CE requirements.

Attachment C of the STD 300 shows the estimated shift in task hours for the CE Analyst position, before and after the proposed regulations go into effect.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact: The Board has made an initial determination that the proposed regulatory action may impact some of the Board’s 2,604 currently approved continuing education providers, if they are not able to meet any of the new Board–designated CE approval agencies’ requirements. The number of current providers that will no longer qualify to offer CE courses is unknown, however a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, is not expected.

The following relevant data was relied upon when making the above determination:

- Examination of qualifications required by Board–designated CE approval agencies.
- Examination of current requirements to become a Board–approved CE provider.
- Number of current Board–approved CE providers (2,604 providers)

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal may eliminate certain continuing education providers, and jobs contained by those providers, if those providers are unable to gain approval by one of the Board’s designated CE approval agencies.

Cost Impact on Representative Private Person or Business: The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action are as follows:

- Currently, the Board charges a \$200 application fee for new CE providers, and a biennial renewal fee of \$200 to renew a CE provider number.
- Since the Board will no longer be approving providers, CE providers will not need to pay these charges, but will need to go elsewhere for approval.
- Examples of other entities’ charges include the Association of Social Work Boards (ASWB), one of the Board’s designated approval agencies, which charges an initial application fee of \$450, and requires a renewal fee of \$900 every three years. The National Board for Certified Counselors (NBCC), another Board–designated approval agency, charges an initial application fee of \$300, and an annual renewal fee of \$100–\$200, depending on the program type.

Effect on Housing Costs: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

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

- Analysis of creation/elimination of jobs: There are currently 2,604 Board–approved CE providers. The Board has determined that this regulatory proposal may eliminate certain continuing education providers, and jobs contained by those providers, if those providers are unable to gain approval by one of the Board’s

designated CE approval agencies. However, the majority of these providers are expected to be able to obtain approval from a Board-recognized approval agency.

- **Analysis of creation/elimination of businesses.** This proposal is not expected to lead to the creation of any new businesses. This proposal may lead to the elimination of an unknown number of some existing businesses within the state, if they are not able to gain approval by one of the Board's designated CE approval agencies. However, the majority of these businesses are expected to be able to obtain approval from a Board-recognized approval agency.
- **Analysis of expansion of business:** This proposal is not expected to lead to the expansion of new businesses within California. This regulation requires businesses wishing to provide continuing education for Board licensees to go to a Board-recognized approval agency for approval, instead of going to the Board for approval as they have been required to do in the past. The change in method of approval is not expected to cause business expansion.
- **Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:** The Board has determined that this regulatory proposal will benefit the health and welfare of California residents by ensuring that the psychotherapists who are treating the public will not be studying unsupported, discriminatory, or unethical practices as part of their Board-required continuing education. The proposal will have no effect on worker safety or the State's environment.

As part of its Economic Impact Analysis, the Board has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, and that while it may eliminate some CE providers who cannot obtain approval from a Board-recognized approval agency, it will not eliminate a significant number of jobs or occupations. This proposal does not impact multiple industries.

Effect on Small Businesses: Many of the Board's CE providers may be considered small businesses. It is expected that many of them will be able to obtain approval to offer CE courses from a Board-recognized approval agency. However, if some of these businesses are not able to obtain approval, they will no longer be able to offer CE courses. However, nothing precludes them from continuing to offer courses; licensees will just not be able to count those courses toward their CE requirement. Therefore, it is expected that this proposed action

may affect an undetermined amount of small businesses, however the majority of these businesses should be able to obtain approval to offer CE courses from a Board-recognized approval agency.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal may eliminate certain continuing education providers, and jobs contained by those providers, if those providers are unable to gain approval by one of the Board's designated CE approval agencies. However, the Board has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs, businesses, or the expansion of businesses in the State of California.

Occupations/Businesses Impacted: This proposed regulation will impact psychotherapists who are licensed by the Board. It will ensure that they will not unknowingly be taking CE courses that advocate unethical practice or practice methods that are not backed up by research.

Reporting Requirements: Reporting requirements may vary depending on which approval agency a CE provider seeks approval from, as different approval agencies may have different reporting requirements. This proposal does contain a provision that requires approval agencies to do the following:

- Maintain a list of the names and addresses of persons responsible for each provider's CE program;
- Provide the Board with names, addresses, and responsible parties of each provider upon request;
- Respond to complaints from the Board, providers, or licensees concerning the activities of its approved course providers; and
- Conduct periodic reviews of its providers' courses to determine compliance with the Board's requirements, and report the findings to the Board if requested to do so.

In addition, the proposal contains a provision that requires providers of CE coursework to do the following:

- Furnish each licensee a record of course completion containing specified information;
- Maintain records of completion for their CE courses four years; and
- Submit required materials to their approval agency or to the Board if requested for a course audit.

Comparable Federal Regulations: None.

Benefits: The benefits will increase public protection by ensuring that the psychotherapists who are treating the public will not be studying unsupported, discriminatory, or unethical practices as part of their Board-required continuing education.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the Notice under Contact Person or by accessing the Board's website, www.bbs.ca.gov.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: Rosanne Helms
 Address: 1625 N. Market Blvd.,
 Suite S-200
 Sacramento, CA 95834
 Telephone No.: (916) 574-7897
 Fax No.: (916) 574-8626
 E-mail Address: Rosanne.Helms@dca.ca.gov

The backup contact person is:

Name: Marc Mason
 Address: 1625 N. Market Blvd.,
 Suite S-200
 Sacramento, CA 95834
 Telephone No.: (916) 574-7828
 Fax No.: (916) 574-8626
 E-Mail Address: Marc.Mason@dca.ca.gov

Website Access: Materials regarding this proposal can be found at vwww.bbs.ca.gov.

TITLE 16. MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California (hereinafter referred to as the "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 Mission Inn, 3649 Mission Inn Avenue, Riverside, CA 92501 at 9:00 a.m., on October 25, 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 not later than 5:00 p.m. on October 22, 2013, or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 2018 of the Business and Professions Code, and to implement, interpret or make specific sections 315, 315.2, and 315.4 of said Code, the Medical Board of California is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

A. Informative Digest

A proposal to implement SB 1441 was heard on July 19, 2013, at the Board’s quarterly meeting held in Sacramento, CA. The Board granted the proposal to amend section 1361 in Article 4, Chapter 2, Division 13 and add section 1361.5 entitled “Uniform Standards for Substance–Abusing Licensees.”

The Board currently regulates approximately 125,000 physicians and surgeons. The Board’s highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Board achieves this goal are: issuing licenses to eligible applicants; investigating complaints against licensees; disciplining licensees for violations of the Medical Practice Act (Act); and monitoring licensees whose licenses have been placed on probation for substance abuse, focusing on the areas of intake and how licensees are monitored as they come into probation and compliance.

Existing law requires the Department of Consumer Affairs (DCA) to establish Uniform Standards regarding substance–abusing licenses, focusing on the areas of intake and how licensees are monitored as they come into probation and compliance.

Existing law, Business and Professions Code (Code) section 2018 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable the Board to carry into effect the provisions of the Medical Practice Act.

Existing law, Code section 315, established the Substance Abuse Coordination Committee (SACC) within the DCA and required the SACC to formulate uniform and specific standards in sixteen specified areas for each healing arts board to use in dealing with substance–abusing licensees, whether or not a board chooses to have a formal diversion program.

Existing law, Code section 315.2, specifies that a healing arts board within the DCA is required to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee’s probation or diversion program. The cease–practice order pursuant to this section does not constitute disciplinary action and is not subject to adjudicative hearings.

Existing law, Code section 315.4, authorizes healing arts boards within the Department to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under section 315. The cease–practice order pursuant to this section does not constitute disciplinary action and is not subject to adjudicative hearings.

Existing law, Government Code section 11400.20, authorizes an agency to adopt regulations to govern an adjudicative proceeding.

The main purpose for this proposal is to amend section 1361 and add section 1361.5 of Title 16 of the California Code of Regulations. The proposed language is necessary to aid the Board in the discipline of substance–abusing licensees to provide better public protection to the people of California.

B. Policy Statement Overview/Anticipated Benefits of Proposal

This regulation will incorporate the Uniform Standards for Substance Abusing Healing Arts Licensees, as required by SB 1441 by proposing to add the standards, which shall be adhered to in all cases in which a licensee is placed on probation due, in part, to a substance abuse problem. These standards shall be followed in all instances, but will also allow the Board to impose more restrictive conditions, if necessary, to protect the public.

C. Consistency and Compatibility with Existing State Regulations

The Board considered other possible related regulations and we find that these are the only regulations dealing in this subject area. Therefore, the Board finds that these proposed regulations are compatible and consistent with the intent of the Legislature in implementing SB 1441, as well as 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 Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

Implementation of the proposed regulation will not impact all physicians licensed by the Board, nor will it impact all physicians on probation. Instead, this regulation would impact only those physicians on probation who are identified as “substance abusing” and subject to the Uniform Standards for Substance–Abusing Licensees. Once so designated, this subset of licensees on probation could be impacted by a temporary removal from practice based on either a positive biological fluid test and/or the requirement to undergo the clinical diagnostic evaluation. Under the proposed regulation, no licensee shall be returned to practice until he or she has at least 30 days of negative biological fluid tests.

The Board has access to a report issued by Merritt Hawkins, “2012 Review of Physician Recruiting Incentives.” This report provides an overview of the salaries, bonuses, and other incentives customarily used to recruit physicians. This data is national; there is no commensurate report focusing only on California. Section 8 of the report offers a breakdown of the “low,” “average,” and “high” base salary for the income offered to the “Top 20 Recruited Specialties.” The average is \$27,250 per physician.

The Board also anticipates that this proposed regulation could create an additional fiscal impact to licensees on probation who test positive for a banned substance in that another clinical diagnostic evaluation can be ordered to ensure the licensee is considered “safe to practice”.

The cost of the “clinical diagnostic evaluation” is estimated to be approximately \$2,000–5,000 per evaluation.

Therefore, the Board estimates that the annual cost will be \$29,250 to \$32,250 per impacted licensee, times the two (2) physicians (the average of those that tested positive in the last five years) not allowed to practice for 30 days, for an annual total of \$58,500 to \$64,500.

This proposed regulation will enhance and strengthen the Board’s ability to closely monitor physicians with substance–abuse issues and quickly remove them from practice when appropriate. The Board’s mission and mandate is to provide protection for the public and the proposed regulation supports this mandate. Removing physicians from practice who have been found to be a danger to the public will enhance consumer protection.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board does not license businesses, the Board licenses individuals; therefore, there is no impact on small businesses or any business.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant adverse economic 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 the Regulation:

The Board has determined that this proposed regulation will benefit California consumers by enhancing and strengthening the Board’s ability to closely monitor physicians with substance–abuse issues and quickly remove them from practice, when appropriate, thus providing the consumer with enhanced protection from physicians with substance abuse problems.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative has been identified and brought to its attention that 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, the initial statement of reasons, and all of the in-

formation upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the Board's website: http://www.medbd.ca.gov/laws/regulations_proposed.html.

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 Web site below.

CONTACT PERSON

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

Name: Susan Cady
Medical Board of California
Address: 2005 Evergreen Street, Suite 1200
Sacramento, CA 95815
Telephone No.: (916) 263-2644
Fax No.: (916) 263-2387
E-mail Address: regulations@mbc.ca.gov

The backup contact person is:

Name: Christine Valine
Medical Board of California
Address: 2005 Evergreen Street, Suite 1200
Sacramento, CA 95815
Telephone No.: (916) 263-2466
Fax No.: (916) 263-2387
E-mail Address: chris.valine@mbc.ca.gov

Web site Access: Materials regarding this proposal can be found at http://www.mbc.ca.gov/laws/regulations_proposed.html.

TITLE 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE CALIFORNIA CAP ON GREENHOUSE GAS EMISSIONS AND MARKET-BASED COMPLIANCE MECHANISMS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below

to consider proposed amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms to: allow for additional transition assistance for covered entities, add a new offset protocol, and incorporate additional cost containment features.

DATE: October 24, 2013
TIME: 9:00 a.m.
PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

WEBCAST: <http://www.calepa.ca.gov/broadcast/?BDO=1>

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m. October 24, 2013, and may continue at 8:30 a.m. on October 25, 2013. This item may not be considered until October 25, 2013. Please consult the agenda for the hearing, which will be available at least 10 days before October 25, 2013, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW PURSUANT TO GOVERNMENT CODE SECTION 11346.5(a)(3)

Sections Affected: Proposed amendments to sections 95802, 95811, 95812, 95813, 95814, 95821, 95830, 95831, 95832, 95833, 95834, 95841.1, 95851, 95852, 95852.1.1, 95852.2, 95853, 95856, 95857, 95870, 95890, 95891, 95892, 95893, 95910, 95911, 95912, 95913, 95914, 95920, 95921, 95922, 95942, 95970, 95971, 95972, 95973, 95974, 95975, 95976, 95977, 95977.1, 95978, 95979, 95980, 95980.1, 95981, 95981.1, 95982, 95983, 95984, 95985, 95986, 95987, 95990, and 96022, title 17, California Code of Regulations. Proposed adoption of new sections 95894, 95895, 95923, 95979.1, Appendix B, and Appendix C, title 17, California Code of Regulations. Proposed adoption of the incorporated California Air Resources Board Compliance Offset Protocol Mine Methane Capture Projects: Capturing and Destroying Methane From U.S. Coal and Trona Mines (2013).

Documents Incorporated by Reference:

The following documents are hereby proposed for incorporation by reference by ARB into the Staff Report for the proposed amendments to the regulation and the proposed Compliance Offset Protocol:

1. American Association of Petroleum Geologists (1991). Geologic Note: AAPG–CSD Geological Provinces Code Map: AAPG Bulletin, Prepared by Richard F. Meyer, Laurie G. Wallace, and Fred J. Wagner, Jr., Volume 75, Number 10. October 1991. (California Air Resources Board Compliance Offset Protocol Mine Methane Capture Projects: Capturing and Destroying Methane From U.S. Coal and Trona Mines (2013))
2. American Society for Testing and Materials Designation (2005). ASTM D388–05 Standard Classification of Coals by Rank. (California Air Resources Board Compliance Offset Protocol Mine Methane Capture Projects: Capturing and Destroying Methane From U.S. Coal and Trona Mines (2013))
3. Association of Official Analytical Chemists (1980). Official Methods of Analysis: 13th Edition. Sections 32.025 to 32.030, Method III (Potentiometric Method). (section 95802, title 17, California Code of Regulations)
4. Association of Official Analytical Chemists (1980). Official Methods of Analysis: 13th Edition. Sections 32.014 to 32.016 and Section 52.012. (section 95802, title 17, California Code of Regulations)
5. California Air Resources Board Compliance Offset Protocol Mine Methane Capture Projects: Capturing and Destroying Methane From U.S. Coal and Trona Mines (2013). (Proposed in section 95973, title 17, California Code of Regulations)
<http://www.arb.ca.gov/cc/capandtrade/protocols/mmcprotocol.htm>
6. California Energy Commission (2013). Guidelines for California’s Solar Electric Incentive Programs (Senate Bill 1), 5th Edition. June 2013. Publication Number: CEC–300–2013–008–ED5–CMF. (section 95841.1, title 17, California Code of Regulations)
<http://www.energy.ca.gov/2012publications/CEC-300-2012-008/CEC-300-2012-008-ED5-CMF.pdf>
7. California Energy Commission (2013). Renewables Portfolio Standard Eligibility Guidebook, 7th Edition. Efficiency and Renewable Energy Division. April 2013. Publication Number: CEC–300–2013–005–ED7–CMF (section 95852.1.1, title 17, California Code of Regulations) <http://www.energy.ca.gov/2013publications/CEC-300-2013-005/CEC-300-2013-005-ED7-CMF.pdf>
8. California Public Utilities Commission (2010). Decision 10–12–035 Adopting Proposed Settlement. Issued December 21, 2010. (section 95802, title 17, California Code of Regulations)
https://www.sce.com/wps/wcm/connect/d63903ad-925d-4a1c-a2b5-62c261a3a82c/CPUC_D_1012035.pdf?MOD=AJPERES
9. International Standards Organization (2010). Tissue paper and tissue products–Part 8: Water–absorption time and water–absorption capacity, basket–immersion test method. 12625–8: 2010. (section 95802, title 17, California Code of Regulations)

Background and Effect of the Proposed Rulemaking

The California Global Warming Solutions Act of 2006 (Assembly Bill 32; Stats. 2006, Chapter 488) (AB 32) authorizes ARB to implement a comprehensive, multi–year program to reduce greenhouse gas (GHG) emissions in California. AB 32 required ARB to develop a scoping plan to reduce GHG emissions in California to 1990 levels by 2020. ARB’s adopted Scoping Plan includes a comprehensive set of actions designed to reduce GHG emissions in California, improve the environment, reduce dependence on foreign oil, diversify energy sources, save energy, create new jobs, and enhance public health. Meeting the goals of AB 32 requires a coordinated set of strategies to reduce GHG emissions throughout the economy that work within a comprehensive tracking, reporting, verification and enforcement framework. The Scoping Plan includes a variety of measures to achieve AB 32 goals, including direct regulations, performance–based standards, and market–based mechanisms. Many of the measures in the Scoping Plan complement and reinforce each other.

The Scoping Plan identified a cap–and–trade regulation (Regulation) as one of the most important strategies for achieving emissions reductions at least cost. As envisioned in the Scoping Plan, the cap and trade program would eventually be linked with cap and trade programs operating in other states and provinces. The Regulation provides a fixed limit on GHG emissions from the sources responsible for about 85 percent of the State’s total GHG emissions. The Regulation reduces GHG emissions by applying a declining aggregate cap on GHG emissions, and creates a flexible compliance system through the use of tradable instruments (allowances and offset credits). The Regulation is designed to link with partners in other jurisdictions. The California Cap–and–Trade Regulation went into effect January 1, 2012.

In 2012, ARB staff proposed two sets of amendments to the Regulation. The first set was focused on imple-

mentation requirements and the second on linking the California and Quebec cap-and-trade programs. At its June 2012 Board hearing, the Board approved the implementation amendments, which became effective September 1, 2012. At its April 2013 Board hearing, the Board approved the linkage amendments. The linkage amendments become effective October 1, 2013, with a linked California and Quebec cap-and-trade program effective on January 1, 2014.

In developing the proposed amendments described in this notice, staff held nine workshops and released discussion draft regulation amendments for public comment. ARB received more than 75 written comments on the discussion draft amendments and met regularly with stakeholders to discuss concerns and recommendations. The proposed amendments provide additional process for clarity in implementation, address stakeholder concerns on cost containment, add a new compliance offset protocol, and extend transition assistance for covered entities in the program. In a separate rule-making action, ARB is amending its mandatory reporting regulation to support some of these proposed changes to the cap-and-trade program.

Objectives and Benefits

The purpose of these amendments is to enhance implementation and oversight of the Cap-and-Trade Program. The proposed amendments also address stakeholder concerns related to cost containment and offset supply. To that effect, staff is proposing amendments to the Regulation, including those related to allocation, market program implementation, and offset program implementation. Staff has proposed allocation for additional sectors, changes to allocation methodologies, and changes to transition assistance for existing sectors. Proposed amendments for market provisions relate to implementation, auctions and reserve sales, additional information reporting, cost containment, and enhancements to support market oversight. Staff has also proposed clarifications and new provisions to help implement the offset program. Staff has proposed amendments that will shift the scheduled reduction in allowance allocation assistance factors by one compliance period. This shift is intended to provide additional time and certainty to industry in making necessary investments in efficiency and emission reducing technologies. Details regarding the proposed amendments are included in Chapter II: Summary of Proposed Action and in Appendix A of the Staff Report. Staff is also proposing a new protocol related to mine methane capture that will provide additional supply of compliance instruments to the market within the existing 8 percent offset limit.

Anticipated benefits of the proposed amendments include improved clarity for covered entities regarding

the allocation of emission allowances, timelines for compliance, offset program implementation and verification, cost containment, enhanced market monitoring and program oversight, and clarity in the emissions reductions required by the program. Given the GHG emissions reductions which will occur because of the program, these amendments may also directly improve the health and welfare of California residents, worker safety, and the State's environment. Specific discussion of the proposed amendments follows.

Resource Shuffling

Per Board Resolution 12-33, the Board directed staff to continue to work with the Emissions Markets Advisory Committee (EMAC), the California Independent System Operator (CAISO), State agencies and stakeholders to provide certainty to the electricity market about how the Regulation will address resource shuffling. The Board also directed staff to further refine the definition of resource shuffling and to identify situations that ARB would not consider resource shuffling. Recommended actions were presented to the Board at the October 2012 Board meeting. Based on these recommended actions, staff developed guidance for the definition of resource shuffling, and identified "safe harbors," or activities that covered entities may engage in that ARB does not consider resource shuffling. Staff has proposed clarifying amendments to the Regulation consistent with the previously recommended actions and published guidance regarding the definition of resource shuffling and the identified safe harbors.

Legacy Contracts

Per Board Resolution 12-33, the Board directed staff, in coordination with the California Public Utilities Commission (CPUC), to develop a methodology that provides transition assistance to covered entities that have a compliance obligation cost that cannot be reasonably recovered due to a legacy contract. Staff evaluated existing legacy contract issues and has proposed methodologies to be included in the Regulation that provide transition assistance through free allocation of allowances to those covered entities with legacy contracts, and through changed allocation of allowances to legacy contract counterparties.

Combined Heat and Power

Per Board Resolution 12-33, the Board directed staff to work with the CPUC, the California Energy Commission (CEC), and stakeholders to develop a methodology that exempts the steam and waste heat emissions for all facilities that would not be included in the Cap-and-Trade program "but for" their investment in combined heat and power (CHP). Staff has proposed a methodology and regulatory language that provides for a process to quantify emissions eligible for the exemp-

tion and to retire equivalent allowances in order to maintain the environmental integrity of the Program.

Emissions Leakage

Per Board Resolutions 12–33 and 11–32, the Board directed staff to continue to evaluate trade exposure categorization and, if necessary, modify the leakage risk determinations to be implemented prior to the allocation of allowances for the second compliance period. The Board further directed staff to complete current studies of leakage risk and evaluate options for ensuring the competitiveness of California industries. Staff has proposed new and modified leakage risk determinations based on the status of current studies under contract to ARB. In addition, staff proposed to increase the assistance factor to 100% throughout the second compliance period for those sectors defined at medium– and low–leakage risk. The third compliance period assistance factor was increased to match the previous assistance factor for the second compliance period for each respective sector. This change was in recognition of the need for regulatory certainty for businesses while the new leakage studies are completed.

Universities

Per Board Resolution 12–33, the Board directed staff to develop a methodology to allocate allowances to California universities that recognizes early actions by universities to reduce greenhouse gas (GHG) emissions, and invest in energy efficiency and CHP. Staff has proposed a methodology for the direct allocation of allowances to California universities that are covered entities as a result of early action GHG reduction activities.

Offset Program Implementation

Staff has evaluated and proposed amendments which clarify processes related to offset program implementation. These amendments address project listing requirements, monitoring and reporting requirements, verification body requirements, conflict of interest requirements, compliance offset credit issuance, timing and deadlines, and roles of air districts. Staff has also proposed changes to clarify the invalidation requirements to be consistent for all project types.

Cost Containment

Per Board Resolution 12–51, staff has proposed amendments to further ensure that allowance prices will not exceed the highest price tier of the Allowance Price Containment Reserve while minimizing the impact on existing allowances and maintaining the environmental integrity of the Program.

Product–Based Benchmarks

Per Board Resolution 11–32, the Board directed staff to identify and propose new benchmarks and allowance allocation for manufacturing of new products in

California. Staff is proposing new product benchmarks for various sectors, including those sectors for which data was not previously collected through the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, California Code of Regulations, section 95100 et seq.), but which may be eligible for free allocation and for activities currently under the energy–based methodology of allowance allocation. Staff has also proposed changes to certain existing benchmarks based on newly available data, where appropriate.

Allowance Allocation

Per Board Resolution 11–32, the Board directed staff to continue to work with stakeholders to further develop the allowance allocation approach for the petroleum refining sector in the second and third compliance period. Staff is proposing modifications to the true–up methodology and considering changes to the allocation methodology associated with refinery allowance allocation using a carbon weighted approach. Staff is also proposing an allocation methodology for suppliers of natural gas, which will have a compliance obligation beginning with the second compliance period. Finally, staff is proposing an allocation methodology for public wholesale water agencies for the protection of water ratepayers.

Waste–to–Energy

Per Board Resolution 12–33, the Board directed staff to develop regulatory amendments to exempt waste–to–energy facilities from the program for the first compliance period. Staff has proposed an exemption of emissions from waste–to–energy facilities, including modifications to require the retirement of allowances associated with the exempted emissions.

Renewable Energy Credits

Staff proposes clarifications to requirements for the retirement of Renewable Energy Credits (REC’s) to ensure that REC’s are not used to account for zero emissions in multiple programs. Staff has proposed modifications to ensure the retirement requirements are consistently applied to both in–state and out–of–state electrical generation facilities that import electricity to California.

Implementation of Auction and Trading Requirements

Staff has proposed modifications related to the implementation of the auction and trading provisions within the Auction Platform and Compliance Information Tracking Services System (CITSS). Staff also proposed modifications to the current schedule for auctions and reserve sales.

Compliance Obligation Surrender

Staff has proposed requirements and a process for the surrender of compliance instruments for the annual and triennial surrender obligation requirements. These

amendments include provisions that specify which instruments are eligible for use, the order of retirement of instruments in the compliance account, and limited future borrowing in cases of allocation true-up.

Compliance Instrument Tracking System Service and Information Disclosure

Staff has proposed modifications to the existing information disclosure requirements and new requirements to ensure rigorous oversight of the market program and of actions taken in the tracking system. Staff has proposed additional information disclosure requirements to help ARB monitor relationships between consultants and market participants.

Market Rules

Staff is proposing modifications to the existing information requirements related to CITSS instrument transfers to aid implementation. These requirements may be used to monitor the market and provide public reports for program transparency. Staff is also proposing modifications to the auction purchase limits.

New Offset Protocol

Staff has proposed to add quantification methodologies for one new proposed Compliance Offset Protocol for mine methane capture projects. A detailed analysis of this protocol is included in Attachment A of the Staff Report.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulatory action, ARB has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

MANDATED BY FEDERAL LAW OR REGULATION

This regulation is not mandated by federal law or regulations.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory ac-

tion, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled, Staff Report: Initial Statement of Reasons for the Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on September 4, 2013.

Final Statement of Reasons Availability

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

Agency Contact Persons

Inquiries concerning the substance of the proposed regulation may be directed to Ms. Rajinder Sahota, Manager of the Climate Change Program Monitoring Section at (916) 323-8503 or Ms. Elizabeth Scheehle, Manager of the Climate Change Program Development Section at (916) 322-7630.

Further, the agency representative and designated back-up contact persons, to whom non substantive inquiries concerning the proposed administrative action may be directed is Ms. Amy Whiting, Regulations Coordinator, at (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2013/capandtrade13/capandtrade13.htm>

DISCLOSURES REGARDING THE PROPOSED REGULATION

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

Fiscal Impact/Local Mandate

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

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

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

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts to representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new business or elimination of existing business within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

Benefits of the Proposed Regulation:

The objective of the proposed amendments to the regulation is to provide additional transition assistance to

covered entities, additional cost–containment mechanisms and aid in implementation in oversight of the regulation.

A summary of these benefits is provided; please refer to “Objectives and Benefits”, under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code section 11346.5(a)(3) discussion on page 4 of this notice.

A detailed assessment of the economic impacts of the proposed regulatory action can be found in Chapter IV of the ISOR, Economic Impacts of the Proposed Regulation.

EFFECT ON SMALL BUSINESS

The Executive Officer has also determined, pursuant to California Code of Regulation, title 1, section 4, that the proposed regulatory action would not affect small businesses because small businesses in regulated sectors would generally not be subject to the proposed regulation. In general, the total GHG emissions for small businesses are below the GHG reporting threshold, thereby exempting them from compliance obligations under the proposed regulation.

HOUSING COSTS

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing.

BUSINESS REPORT

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

ALTERNATIVES

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

ENVIRONMENTAL ANALYSIS

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

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting and may provide comments by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on September 9, 2013. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after September 9, 2013 and received no later than 12:00 noon on October 23, 2013, and must be addressed to the following:

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

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

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

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

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

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

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 38510, 38560, 38562, 38564, 38570, 38571, 38580, 39600, and 39601, and section 16428.8, Government Code. This action is proposed to implement, interpret, and make specific sections 38530, 38560.5, 38564, 38565, 38570 and 39600 of the Health and Safety Code.

HEARING PROCEDURES

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

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

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

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs can be provided for any of the following:

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

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

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia

- Documentos disponibles en un formato alterno u otro idioma
- Una acomodación razonable relacionados con una incapacidad

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

TITLE 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATION FOR THE MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS

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

DATE: October 24, 2013

TIME: 9:00 a.m.

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

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., October 24, 2013, and may continue at 8:30 a.m., October 25, 2013. This item may not be considered until October 25, 2013. Please consult the agenda for the meeting, which will be available at least 10 days before October 24, 2013, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to sections 95101, 95102, 95103, 95104, 95105, 95110,

95111, 95112, 95113, 95114, 95115, 95116, 95117, 95118, 95119, 95120, 95121, 95122, 95123, 95129, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, and 95157, title 17, California Code of Regulations. Proposed adoption of new section 95124 and Appendix B, title 17, California Code of Regulations.

Documents Incorporated by Reference:

1. Definition of Volatile Organic Compounds (VOC). 40 CFR Part 51.100(s). United States Environmental Protection Agency. March 31, 2009.
http://www.epa.gov/ttn/naags/ozone/ozonetech/def_voc.htm (accessed August 2, 2013)
2. Definition of Toxic Air Contaminant. California Health and Safety Code, Section 39655(a).
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=39001-40000&file=39655> (accessed August 2, 2013)
3. ASTM D-70 — 09 “Standard Test Method for Density of Semi-Solid Bituminous Materials (Pycnometer Method),” 2010.
4. ASTM D-287 — 92 “Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method),” 2006.
5. ASTM D-1945 — 03 “Standard Test Method for Analysis of Natural Gas by Gas Chromatography,” 2003.
6. ASTM D-2597 — 94 “Standard Test Method for Analysis of Demethanized Hydrocarbon Liquid Mixtures Containing Nitrogen and Carbon Dioxide by Gas Chromatography,” 2004.
7. ASTM D-3710 — 95 “Standard Test Method for Boiling Range Distribution of Gasoline and Gasoline Fractions by Gas Chromatography,” 1999.
8. ASTM D-3588 — 98 “Standard Practice for Calculating Heat Value, Compressibility Factor, and Relative Density of Gaseous Fuels,” 2003.
9. ASTM D-4007 — 08 “Standard Test Method for Water and Sediment in Crude Oil by the Centrifuge Method,” 2008.
10. ASTM D-4052 — 09 “Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter” 2009.
11. ASTM D-5002 — 99 “Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer” 2010.
12. ASTM D-5504 — 08 “Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence,” 2008.

13. ASTM D-6228 — 10 “*Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Flame Photometric Detection*,” 2010.
14. California Health and Safety Code, Part 3 of Division 26, commencing with Section 40000. *Air Pollution Control Districts*. <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=hsc> (accessed August 22, 2013).
15. “*Columbia River Treaty: Treaty between Canada and the United States of America relating to Cooperative Development of the Water Resources of The Columbia River Basin*,” January 17, 1961.
16. EPA Method 15 “*Determination of Hydrogen Sulfide, Carbonyl Sulfide, and Carbon Disulfide Emissions from Stationary Sources*,” 1996.
17. EPA Method 16 “*Semicontinuous Determination of Sulfur Emissions from Stationary Sources*,” 1996.
18. EPA Method 8021 B “*Aromatic and Halogenated Volatiles By Gas Chromatography Using Photoionization And/or Electrolytic Conductivity Detectors*,” 1996.
19. EPA Method 8260B “*Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS)*,” 1996.
20. EPA Method TO-14 “*Determination of Volatile Organic Compounds (VOCs) In Ambient Air Using Specially Prepared Canisters with Subsequent Analysis by Gas Chromatography*,” 1999.
21. EPA Method TO-15 “*Determination of Volatile Organic Compounds (VOCs) In Air Collected In Specially-Prepared Canisters and Analyzed By Gas Chromatography/Mass Spectrometry (GC/MS)*,” 1999.
22. GPA 2174 — 93 “*Analysis Obtaining Liquid Hydrocarbon Samples For Analysis by Gas Chromatography*,” 1993.
23. GPA 2177 — 03 “*Analysis of Natural Gas Liquid Mixtures Containing Nitrogen and Carbon Dioxide by Gas Chromatography*,” 2003.
24. GPA 2261 — 00 “*Analysis for Natural Gas and Similar Gaseous Mixtures by Gas Chromatography*,” 2000.
25. GPA 2286 — 95 “*Extended Gas Analysis Utilizing a Flame Ionization Detector*,” 1995.
26. ISO 12625-8:2010 “*Tissue paper and tissue products — Part 8: Water-absorption time and water-absorption capacity, basket-immersion test method*,” International Standards Organization, 2010.
27. ISO 50001 “*Energy Management Systems — Requirements with Guidance for Use*,” International Standards Organization, 2011.
28. “*Official Methods of Analysis of the Association of Official Analytical Chemists*,” 13th Ed., 1980, sections 32.025 to 32.030, under the heading “Method III (Potentiometric Method).”
29. “*Official Methods of Analysis of the Association of Official Analytical Chemists*,” 13th Ed., 1980, sections 32.014 to 32.016 and 52.012.
30. “*Standards for Gas Service in the State of California, General Order No. 58A*.” State of California, Public Utilities Commission, 1992.

Background and Effect of Proposed Rulemaking:

In 2006, the Legislature passed and Governor Schwarzenegger signed the California Global Warming Solutions Act of 2006 (Assembly Bill 32 (AB 32); Stats. 2006, chapter 488). In AB 32, the Legislature declared that global warming poses a serious threat to the economic well-being, public health, natural resources, and environment of California. AB 32 created a comprehensive, multi-year program to reduce greenhouse gas (GHG) emissions in California, with the overall goal of restoring emissions to 1990 levels by the year 2020.

One of the requirements of AB 32 is that ARB must adopt a greenhouse gas reporting regulation. To comply with this requirement, the Board approved the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (reporting regulation) at its December 2007 Board meeting. The reporting regulation became effective on January 2, 2009.

Over the past five years, ARB staff has implemented the California greenhouse gas reporting program established by the reporting regulation. Under the program, over 700 facilities and entities annually submit to ARB their GHG emissions data reports, the majority of which are verified as accurate and complete by ARB-accredited third-party verifiers. Information about the program can be found at: <http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep.htm>.

At its December 2010 public hearing, the Board approved amendments to the reporting regulation to support the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms (title 17, CCR, section 95800 et seq.) (Cap-and-Trade regulation) data requirements, harmonize to the extent feasible with the United States Environmental Protection Agency’s (U.S. EPA) Final Rule on Mandatory Reporting of Greenhouse Gases (rule), and align with the Western Climate Initiative (WCI) reporting structure. Those amendments to the reporting regulation became effective on January 1, 2012.

In September 2012, the Board approved additional amendments to the reporting regulation, as well as updates to the definition sections of the AB 32 Cost of Implementation Fee Regulation and the Cap-and-Trade regulation. These updates were necessary to streamline and avoid duplicate GHG reporting, to further align with U.S. EPA's GHG rule, and to continue to provide the highest quality data needed to support California's Cap-and-Trade program. These amendments to the reporting regulation became effective on January 1, 2013. Links to the rulemaking documents are located here: <http://www.arb.ca.gov/cc/reporting/ghg-rep/regulation/mrr-regulation.htm>.

ARB staff is proposing amendments to the reporting regulation to be heard at the Board's October 24–25, 2013 hearing. The proposed updates are needed to continue to support benchmarking, allocation of allowances and the covered emissions calculation under the Cap-and-Trade regulation; and to ensure that reported GHG emissions data is accurate and complete in order to support California's other climate and GHG reduction programs, including the statewide GHG emission inventory. Staff is not proposing any changes to further align with the U.S. EPA's GHG reporting rule at this time. U.S. EPA is currently undergoing a regulatory amendment process to add in new emission factors, modify emission estimation and calculation methods, and revise global warming potentials but these amendments are not yet final. Once final, ARB will evaluate the revisions to determine whether a future rulemaking action to further amend the California reporting regulation is necessary.

Objectives and Benefits of the Proposed Regulation:

The purpose of the proposed amendments to the reporting regulation is to carry out the goals of AB 32 and maintain a robust and accurate GHG reporting program. The mandatory reporting program tracks the emissions from reporting entities over time, demonstrating progress in reducing GHG emissions. The proposed amendments will support the Cap-and-Trade regulation with the highest quality of data by collecting additional information to ensure the accuracy of the data used for benchmarking, allocation of allowances, and the covered emissions calculation. Additionally, the amendments will help to make certain that reported GHG emissions data is accurate and complete in order to support emissions reduction programs throughout the state.

Anticipated benefits of the proposed revisions include improved clarity for each reporting entity's reporting and verification obligations, more accurate GHG emissions estimates from corrected or updated emissions calculation methods and emission factors, improved methods to support the accuracy of the state-

wide GHG inventory program and continued robust methods for reporting emissions and product data in order to support ARB's Cap-and-Trade regulation. These benefits may also result in indirect benefits to the health and welfare of California residents, worker safety, and the state's environment by ensuring that the state has an accurate inventory of GHG emissions to support programs which will reduce emissions and directly improve the health and welfare of California residents, worker safety, and the state's environment.

Below is a summary of proposed updates to the reporting regulation. A more detailed description of the proposed updates appears in the Summary and Rationale section of the Initial Statement of Reasons (ISOR).

Applicability: Proposed revisions in this section have been added to require GHG reporting by facilities in the lead production sector. This sector was specifically not included in prior updates to the reporting regulation, as there was no known lead production facility in the state which met applicability requirements for GHG reporting. With the identification of lead production facilities in the state that meet the applicability requirements, staff is now proposing to include emission and product data requirements in new section 95124. Additionally, staff is also proposing to add emissions and product data reporting requirements for other sectors listed in the U.S. EPA's GHG reporting rule that had previously been excluded from California's reporting regulation due to the lack of identified sources in the state. These sectors will now be required to report if they either meet the applicability requirements or begin industrial operations in the state.

Staff added language to clarify that vented and fugitive emissions must be included in the calculation for the applicability threshold, as well as emissions from hydrogen fuel cell units.

Cessation of Reporting and Verification: Staff has proposed revisions to clarify the cessation of reporting as well as the cessation of verification requirements. The cessation requirements for reporting and verification are now broken out into two separate sections for greater clarity. Additionally, the proposed revisions clarify the different cessation of reporting requirements between the mandatory reporting and Cap-and-Trade regulations.

The revisions specify that a reporting entity must fully comply with the Cap-and-Trade requirements. When a covered entity is no longer subject to the Cap-and-Trade program, the entity must continue to comply with the cessation of reporting and verification requirements.

Definition Clarifications and Additions: Existing definitions were clarified to minimize ambiguity. New definitions were added to support updated provisions

described in this staff report, such as new product data categories, new language related to electric power entities, and clarifications of existing terms including emissions data reports, correctable errors, and common control.

Abbreviated Reporters: Additional, minor requirements were added for abbreviated reporters to ensure data compatibility with non-abbreviated emissions data reports. This new data includes attributing percentages of aggregated fuel consumption to the unit type categories specified in section 95115(h), separately reporting electricity generating units from other general stationary combustion units, and including emissions from hydrogen fuel cell units in their reports. Additionally, staff has clarified the requirement for abbreviated reporters to correct known errors in their emissions data reports, if discovered after the original submission of their report, ensuring the most accurate data reporting possible.

Reporting 2013 data in 2014: Because the proposed amendments to this reporting regulation will become effective after the data has been collected for 2013, staff specifically describes reporting of 2013 data in 2014 for new reporting requirements. The language in this section is applicable to new reporting requirements in the following areas: product data reporting requirements found in subarticles 3 and 5; reporting requirements for operators of hydrogen and lead production facilities, suppliers of natural gas, and electric power entities. Provisions are also added for indicating which requirements are applicable for 2014 data reported in 2015.

Metering Requirements: Staff added language to exempt certain non-financial transaction meters used by Public Utility Gas Corporations (PUGCs) from the metering accuracy requirements, if they are operated and maintained in conformance with a standard that meets the measurement accuracy requirements of the California Public Utilities Commission General Order 58A. This was added so that PUGCs do not have to meet two different metering standards for the same meters. Additionally, it ensures the continued accuracy of the non-financial transaction meters by requiring the PUGC to demonstrate accuracy requirements specified in the California Public Utilities Commission General Order 58A, which is consistent with the existing reporting requirements.

Product Data Reporting: Staff added language to allow exclusions from reporting of covered product data under certain conditions. This new provision applies to all covered product data reporting except for the data reported by the cement sector in section 95110(d). This new provision also includes a requirement for each reporting entity to include which covered product data was excluded, for tracking purposes. These modifica-

tions allow increased flexibility for reporting covered product data.

Facility Ownership: To clarify the reporting and verification responsibilities during a change of ownership, staff has proposed amendments that specify the steps which must be taken by the parties, and who is responsible for reporting. This ensures the consistent and continuous reporting of a reporting entity.

Reporting Data to Support the Adaptive Management Plan for the Cap-and-Trade Regulation: Staff added a requirement for facilities to indicate if their non-GHG emissions (i.e., criteria and toxic pollutant emissions) may have increased since the last reporting period, and the reason for such potential increases. This information will be used to support the Adaptive Management Plan for the Cap-and-Trade regulation. Specifically, the data collected will be used to provide ongoing evaluation and adjustments to the Cap-and-Trade regulation, as it relates to localized air quality impacts due to implementation.

Recordkeeping Requirements: All facilities with greater than 25,000 metric tons CO₂e of emissions must prepare and maintain a GHG Monitoring Plan. New language specifies that this applies also to biomass-derived CO₂ emissions, geothermal emissions, and fuel suppliers. Maintaining a GHG Monitoring Plan helps to ensure compliance and best practices, facilitate more efficient verification, and provide a consistent treatment among the facilities at the greater than 25,000 metric tons CO₂e emission level.

Electric Power Entities: The proposed amendments for electric power entity reporting address issues related to specified source and asset-controlling supplier power claims. The amendments would build on requirements developed in the 2012 rulemaking to more clearly distinguish between specified, unspecified, and asset-controlling supplier power products. The amendments proposed for system power language would require purchasers of system power that has a carbon content above the default emission factor to report imported power using a system power emission factor calculated by ARB, instead of the lower default emission factor for unspecified power, in order to accurately reflect the carbon content of the system power.

Multiple Electricity Generation and Cogeneration Units with Multiple Dedicated End Users: Under the proposed revisions, if a facility includes more than one cogeneration (cogen) system or electricity generating unit and provides or sells generated energy to more than one end user, and the generated energy from the multiple units is not mixed before being supplied to a particular end user, the entity must report the energy disposition by unit or system. This requirement does not apply if the energy generated by multiple units is commingled

and supplied to the same end users. It enables the assessment of carbon cost pass-through from the cogen facility operator to their thermal hosts, separately from other units that are not part of the cogen system.

Cooling Energy: New language proposed by staff requires facility operators to provide information about thermal energy which is used to produce cooling energy or distilled water for a customer outside of its facility boundary or for on-site industrial processes or operations that are neither in support of nor a part of the power generation system. This new requirement allows affected reporting entities to complete their system energy balance.

Refineries: Proposed updates in this section include clarifying text describing the verification of primary refinery products and the Solomon EII value. The proposed revisions outline which verification requirements need to be followed for present and future data submissions. A new reporting requirement added to annually determine the density of each carbon weighted tonne throughput will allow for an accurate assessment of this covered product data. Additionally, complexity weighted barrel requirements were added to support the allocation of allowances in the Cap-and-Trade program. The complexity weighted barrel requirements are similar to the carbon dioxide weighted tonne throughputs, but are reported in barrels as opposed to metric tons of throughput.

Updates have also been made so that refineries who also supply transportation fuels report the transportation fuels under a separate ARB ID from the refinery. This ensures that the covered refinery emissions are reported and verified separately from the fuel supplier emissions. It also clarifies verification requirements by requiring verifiers to consider the refinery emissions separately from the supplier emissions, thereby facilitating an effective verification of the transportation fuel.

Hydrogen Fuel Cells: The past few years have seen a growth in installation of new hydrogen fuel cell units. To support the state-wide inventory of electricity generation emissions and to help ARB monitor the growth in hydrogen fuel cell installations, emission calculation methods for hydrogen fuel cell are added.

Hydrogen Production: Staff is also proposing several new requirements for hydrogen production facilities. The source category description has been edited to include facilities which do not sell hydrogen, but rather consume all the hydrogen they produce on-site (e.g., R&D facilities). To support both the GHG statewide inventory, new requirements have been added which require reporting of carbon and hydrogen content and CH₄ and N₂O combustion emissions. Reporters will also be required to report the amount of on-purpose and by-product hydrogen production at their facility. Re-

porters will need to include their flaring emissions, a requirement that was originally in the 2007 version of the reporting regulation, but was inadvertently omitted during the harmonization with the U.S. EPA rule. Finally, reporters will be required to adjust their facility emissions for both transferred CO₂ to guard against double-counting and provide data consistency for all report facilities. These updates support the development of an accurate GHG inventory and support benchmarking and allocation analyses in the Cap-and-Trade program.

Stationary Combustion Sources: Staff revised this section to simplify emissions estimation for biomass-derived fuel, allowing use of the Tier 1 or Tier 2 methodologies when biomass fuels are mixed with fossil fuels. Staff also provided a correction for the aggregated data reporting requirement, so fuel use percentages are reported instead of heat input values, which is consistent with the reporting tool inputs. Staff also added new product data reporting requirements for several industrial sectors. This additional reporting is needed for Cap-and-Trade benchmarking and allocation of free allowances to the affected sectors.

Lime Production Emissions: For some industrial sectors that produce lime, the CO₂ produced is reintroduced into the manufacturing process and not released into the atmosphere. Staff has proposed updated emissions estimation method accounts for CO₂ reinjected and recovered in production, so emissions can be treated appropriately in the Cap-and-Trade program.

Fuel Suppliers: Several revisions have been added for suppliers of transportation fuels, natural gas, natural gas liquids, and liquefied natural gas (LNG). The first allows all fuel suppliers to use *de minimis* provisions in reporting. This ensures consistency with other reporting entities, which already are allowed to use *de minimis* provisions. For transportation fuel suppliers, staff added language to delineate which fuels are required to be reported. Specifically, the new language clarifies that fuel used for aviation or marine purposes is not reported as a transportation fuel, primarily because the fuel is largely combusted outside of California.

In addition, staff also revised the definition and reporting requirements for operators of intrastate pipelines to better clarify the applicability and reporting requirements for operators of intrastate pipelines delivering natural gas. This addition was made to ensure consistent and complete reporting of all natural gas delivered to end-users within California. New provisions affecting natural gas utilities were also added, which require utilities to report customer data regarding deliveries to smaller end-users and 'redeliveries' to other natural gas utilities. The new reporting requirements will enhance ARB staff's ability to accurately and promptly determine the covered emissions value for the natural gas utilities.

Lastly, additions were made to the applicability requirements and reporting requirements that require all liquefied natural gas production facilities to quantify and report emissions from delivered LNG product if the facility is receiving the natural gas feedstock for the liquefaction process from an interstate pipeline. This addition ensures that there are no gaps in reporting natural gas supplied in California.

Petroleum and Natural Gas Systems: The majority of the proposed changes to Subarticle 5 will correct clerical references, address past omissions, and provide additional clarity. The definition of an onshore petroleum and natural gas production facility was clarified to support the allocation of allowances in the Cap-and-Trade program. Additional edits provide clarity to the reporting of stationary combustion emissions, particularly combustion emissions associated with non-pipeline quality natural gas. Staff has also proposed new language to require reporting of emissions from completions and workovers from oil wells in addition to gas wells. This will result in more complete emissions coverage as the majority of wells in California are for oil.

To address cost concerns, staff has proposed revisions to add flexibility in leaker emission reporting by allowing the use of both the population counts and the sampling method for estimating emissions.

Staff has also added new language to require that the amount of dry gas produced is also reported. While this was optional in prior data years, it is now required to support Cap-and-Trade allowance allocations. Other new language requires the reporting of the crude fraction and associated gas fraction of emulsion piped as an emulsion as defined in section 95102(a), also to support Cap-and-Trade allowance allocation. Finally, staff proposed that onshore natural gas processing facilities with an annual throughput of 25MMscf/day or more are required to report volumes of gas processed.

Flash Liberation Test: ARB staff has proposed to add in a new test procedure, which details an ARB methodology for the testing and determination of produced water, crude oil and condensate emissions via a flash liberation test. This procedure is a cost-effective method of determining gas-to-oil and gas-to-water ratios for oil wells. The test procedure is included in new Appendix B of this regulation.

Verification: Several provisions related to verification services and verification bodies have been updated. New language clarifies specific requirements for the conformance evaluation. Staff is also proposing updates to allow for multiple product data verification statements in cases where multiple product types are reported (e.g., primary refinery products and carbon weighted tonne). Staff has also added language to clarify

the intent of the correctable error requirements in section 95131(b)(9).

Staff added language to clarify requirements of liability insurance for verification bodies, as well as simplifying the withdrawal requirements for verification bodies who no longer wish to participate in the mandatory reporting program. Clarifying language allows verification bodies to perform multiple third-party verification services for the same reporting entity under the auspices of different GHG reporting programs, and avoid a high conflict determination, provided that the verification body continues to observe the requirements of mandatory reporting conflict of interest determination.

General: Staff has proposed modifications in a number of other sections, in order to maintain consistency in the structure of the regulation. None of these minor modifications are intended to alter requirements—several of the updates or additions correct clerical oversights and references, while others renumber sections for uniformity with the remainder of the reporting regulation.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulatory action, ARB has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

MANDATED BY FEDERAL LAW OR REGULATIONS

This regulation is not mandated by federal law or regulations.

COMPARABLE FEDERAL REGULATIONS

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

AVAILABILITY OF DOCUMENTS AND
AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The ISOR is entitled: “Staff Report: Initial Statement of Reasons for Rulemaking: Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions.”

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on ARB’s website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322–2990 on September 4, 2013.

Final Statement of Reasons Availability

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

Agency Contact Persons

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

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

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR when completed, are available on ARB’s website for this rulemaking at: <http://www.arb.ca.gov/regact/2013/ghg2013/ghg2013.htm>.

DISCLOSURES REGARDING THE
PROPOSED REGULATION

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

proposed regulation includes additional data on the estimated costs to affected entities.

Fiscal Impact / Local Mandate

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would result in a marginal cost increase to 6 state agencies (universities and prison) and 21 local government entities (power plants, wastewater treatment plants, landfills, and airports operated by local government entities). ARB estimated that each affected state agency may see an incremental cost increase of approximately \$1,000 in the first year and \$230 in the on–going years. Each affected local government entity may see an incremental cost increase of approximately \$1,200 in the first year and \$250 in the on–going years.

Because the regulatory requirements apply equally to all reporting categories and unique requirements are not imposed on local agencies, the Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies that is required to be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution. In addition, there are no other nondiscretionary costs or savings imposed upon local agencies.

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

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

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete

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

Cost Impacts on Representative Private Persons or Businesses

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative businesses and determined that private businesses may see an incremental cost increase as the result of the proposed regulatory action. Approximately half of all the businesses currently subject to the existing reporting regulation may experience a cost increase due to the proposed action; while the other businesses are not expected to see a noticeable change in cost of compliance.

ARB staff estimates that the amended requirements will lead to a cost increase of \$56 million for private business entities over 8 years. For an average private business entity not in the oil and gas sector, the amendments are expected to result in an average annual cost increase of approximately \$3,480 in the initial year and \$2,300 in the ongoing years per business entity (which may operate multiple facilities, each of which may be impacted by the regulation amendments differently). Although the cost impacts to individual businesses in the oil and gas sector are expected to vary widely depending on the scale of their operations, the average incremental cost per company is estimated to be approximately \$479,000 in the initial year and ongoing years. Staff estimated that 98.5% of all the cost impacts occur in the oil and gas sector.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide economic impact directly affecting representative private persons.

Results of the Economic Impact Assessment Prepared Pursuant to Government Code Sec. 11346.3(b)

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in Chapter VI Economic Impacts of the ISOR.

Benefits of the Proposed Regulation:

Anticipated benefits of the proposed revisions include improved clarity for reporting entity's reporting and verification obligations, more accurate GHG emissions estimates from corrected or updated emissions calculation methods and emission factors, improved methods to support the accuracy of the statewide green-

house inventory program and continued robust methods for reporting emissions and product data in order to support ARB's Cap-and-Trade regulation. These benefits may also result in indirect benefits to the health and welfare of California residents, worker safety, and the state's environment by ensuring that the state has an accurate inventory of GHG emissions to support programs which will reduce emissions and directly improve the health and welfare of California residents, worker safety, and the state's environment. A further discussion on the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the ISOR.

Effect on Small Business

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because none of the affected companies qualify for the small business status based on the California Government Code section 11342.610 definition.

Housing Costs

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

Business Report

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

Alternatives

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, 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. Since the proposed amendments are made to the existing reporting regulation, and given that these proposed amendments do not have a significant adverse fiscal or economic impact, no alternatives, other than one in which no regulatory amendments would be made and ones in which the specific amendments to various sector requirements are compared to harmonization with the applicable U.S. EPA rule requirements or data collected from other sources, were considered. These

alternatives are fully described in Chapter II of the ISOR.

Environmental Analysis

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

**WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS**

Interested members of the public may present comments relating to this matter orally or in writing at the meeting, and may provide comments by postal mail or electronic submittal before the meeting. The public comment period for this regulatory item will begin on September 9, 2013. To be considered by the Board, written submissions not physically submitted at the hearing must be submitted on or after September 9, 2013, and received **no later than 12:00 noon, October 23, 2012**, and must be addressed to the following:

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

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

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

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

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

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

AUTHORITY AND REFERENCES

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

HEARING PROCEDURES

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

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

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

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

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

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

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o

necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

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

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

TITLE 22. DEPARTMENT OF PUBLIC HEALTH

SUBJECT: Public Pools (DPH-03-017A)

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct written proceedings during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

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 October 21, 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-03-017A" 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.

PUBLIC HEARING

No hearing has been scheduled; however, any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8. For individuals with disabilities the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of written public hearing materials into Braille, large print, audiocassette, or computer disk. *Note:* The range of assistive services available may be limited if requests are received less than ten business days prior to 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.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This proposed regulatory action amends public pool operation and maintenance regulations that affect public pool sanitation, health and safety practices in California. The California Department of Public Health (CDPH) last updated these regulations in 1986. Since then, public health researchers have developed a clearer understanding of public pool sanitation, health and safety. Public health research and recommendations, new technology and updated pool industry practices have changed. This proposed regulatory action is necessary to incorporate these changes and to effectuate CDPH's statutory mandate to supervise the sanitation, healthfulness and safety of public pools pursuant to Health and Safety Code (H&S Code) sections 116035 and 116050.

The existing regulations that make specific, interpret and implement the broad public pool sanitation, health

and safety statutes are located in CCR Title 22. This proposed regulatory action would update the CCR Title 22, sections 65501 through 65551 regarding public pool operation, maintenance, health, sanitation and safety regulations in accordance with public health recommendations primarily by the Centers for Disease Control (CDC) and the World Health Organization (WHO). This regulatory action is necessary to protect public health and safety. It is also necessary for clarity and for consistent enforcement of public pool standards statewide. The proposed action repeals certain existing and outdated Title 22, California Code of Regulations (CCR Title 22) that pertain to public swimming pool construction because those regulations are duplicative of provisions in CCR, Title 24, Chapter 31B, Part 2 (Title 24, California Building Code) in 2012.

BROAD OBJECTIVES AND BENEFITS

The broad objectives and anticipated benefits, including nonmonetary benefits, from this proposed regulatory action are:

- To effectuate CDPH's statutory mandate to effectively supervise the sanitation, healthfulness and safety of public pools by updating operation and maintenance standards to meet current public health recommendations, incorporate new technology and testing procedures, and mandate better safety practices.
- To enable enforcing agents to hold appropriate persons responsible for healthful, sanitary and safe public pool operation and maintenance through clear and updated standards.
- To implement standardized fecal, vomit, diarrhea and drowning incident response procedures, diarrhea signage and recordkeeping requirements at all public pools to protect public health and safety.
- To repeal some existing CCR Title 22 regulations that pertain to public pool construction standards because those regulations are duplicative of provisions in Title 24, California Building Code.
- To reduce confusion for regulation users by updating existing unclear and antiquated regulatory language in CCR Title 22.
- To protect the health and safety of public pool users and workers by ensuring all public pools, water quality systems, safety equipment and procedures, ancillary facilities, and all aspects of public pool operation and maintenance meet up-to-date public health standards and recommendations.

AUTHORITY AND REFERENCE CITATIONS

CDPH is authorized to make and enforce regulations pertaining to public swimming pools pursuant to H&S Code sections 116035 and 116050. CDPH is proposing to adopt, amend, or repeal public swimming pool sanitation, health and safety operation and maintenance regulations in accordance with H&S Code sections 116025 through 116068. The statutory authority cited for this regulatory proposal is found in H&S Code sections 116035, 116048, 116050, 131052 and 131200 and Civil Code sections 54, 54.1 and 54.2. The references cited in this regulatory proposal are H&S Code sections 115950, 115952, 116025, 116028, 116035, 116040, 116043, 106050, 116053 and 116055, 116060 and 116063.

This rulemaking action implements, interprets, and makes specific the public pool sanitation, health and safety statutes by adopting new regulatory sections 65530, 65534, 65540 and 65546; amending sections 65501, 65503, 65511, 65521, 65523, 65525, 65527, 65529, 65531, 65533, 65535, 65537, 65539, 65541, 65545 and 65551; and repealing sections 65505, 65507, 65509, 65543, 65547 and 65549, CCR Title 22.

ADVISORY GROUP OR OTHER AGENCY COMMENT, CONSULTATION AND/OR APPROVAL, INCLUDING CALIFORNIA CONFERENCE OF LOCAL HEALTH OFFICERS

This regulation proposal will be submitted to the California Conference of Local Health Officers for review and written comment. The California Conference of Directors of Environmental Health was instrumental in the development of the regulation amendments and the proposal will be submitted to them for written review and comment.

FORMS INCORPORATED BY REFERENCE: None.

MANDATED BY FEDERAL LAW OR REGULATIONS: No.

OTHER STATUTORY REQUIREMENTS: None.

DISCLOSURES REGARDING THE PROPOSED ACTION

CDPH has made the following initial determinations:

LOCAL MANDATE DETERMINATION

CDPH has determined that this regulatory action would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with Section 17500) of division 4 of the Government Code.

FISCAL IMPACT ESTIMATE

- A. **Fiscal Effect on Local Government:** CDPH anticipates that there may be minor costs to local governments that operate public pools. Most large public pools already meet most or all of these proposed standards. If they do not currently operate in accordance with this proposed regulatory action, CDPH anticipates local governments will incur some minor additional costs. CDPH anticipates that these additional costs are insignificant in light of the existing regulatory requirements and the current overall costs to own, operate and maintain a public pool. The proposed regulatory requirements and standards for local government are the same as for State agencies and businesses operating public pools in California.
- B. **Fiscal Effect on State Government/Costs or Savings to Any State Agency:** CDPH anticipates that there may be costs to California agencies or departments that operate public pools. Most large State-owned pools already meet most or all of these proposed standards. If they do not currently operate in accordance with this proposed regulatory action, CDPH anticipates the State agency will incur some additional costs. CDPH anticipates that these additional costs are insignificant in light of the existing regulatory requirements and the current overall costs to own, operate and maintain a public pool.
- C. **Other Nondiscretionary Cost or Savings Imposed on Local Agencies:** None.
- D. **Fiscal Effect on Federal Funding of State Programs:** None.

HOUSING COSTS

CDPH has determined that the regulations *will* have an impact on housing costs although those costs will not be significant. CDPH has determined that the proposed regulations will only have a financial impact on multi-unit housing with a public pool or spa. Current regulations require public pool operators to provide safety equipment and signs, test and record pool water quality and contaminant levels, maintain water treatment systems and comply with numerous public pool health, safety and sanitation regulations. The proposed regulations will add an initial, one-time cost for multi-unit housing with a public pool to install a diarrhea sign. There might be a minor increase in costs for public pool operators in the State who use cyanuric acid and for pool operators who do not meet current best pool industry standards and the existing public pool regulations. CDPH anticipates that these additional costs are insignificant

in light of the existing regulatory requirements and the current overall costs to own, operate and maintain a public pool.

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

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

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Based on the economic impact analysis, CDPH has determined that it is likely the regulations would not significantly affect the following:

1. The creation or elimination of jobs within the State of California.
2. The creation of new businesses or the elimination of existing businesses within the State of California.
3. The expansion of businesses currently doing business within the State of California.
4. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment. The Department has made a determination that the proposed regulations would benefit California residents' health and welfare and the state's environment by ensuring public pools, water quality systems and ancillary facilities are clean, sanitary and free from disease with no adverse impacts to worker safety.

SMALL BUSINESS DETERMINATION

CDPH has determined that there are approximately 4,000 small businesses that operate public pools in California. CDPH has further determined that this proposed regulatory action would affect small businesses that own or operate public pools. Existing regulations require public pool operators to provide safety equipment and signs, test and record pool contaminant levels, maintain water treatment systems, and comply with numerous public pool health, safety and sanitation requirements. The proposed regulations should have a small financial impact on small business owners operating public pools in the State if the pool operators currently operate and maintain their public pools in compliance with existing health, safety and sanitation regu-

lations. If the small business uses cyanuric acid in its public pool, there will be additional costs to replace water to meet the proposed regulations. If the public pool does not currently have a posted diarrhea sign, this will also add to small business costs.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

All cost impacts, known to CDPH at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, have been included in the Economic Impact Analysis. CDPH anticipates that there will be costs to private persons or businesses in California that operate public pools. Most large public pools already meet most or all of these proposed standards. If they do not currently operate in accordance with this proposed regulatory action, CDPH anticipates the pool operator will incur additional costs as detailed below. Smaller pools may or may not meet the existing public pool standards. If they currently operate in accordance with existing public pool regulations and standards, CDPH anticipates the costs to comply with these new regulations will be up to \$200 per public pool. This cost is for posting a diarrhea sign and staff costs to test for additional water quality standards and characteristics.

For public pools not in compliance with existing regulations, CDPH anticipates the cost of compliance could be higher. CDPH is not able to determine an average increased cost for noncompliant pools because public pool sizes, shapes, labor and equipment, water costs and volume, and other operation and maintenance costs vary so dramatically from small spas to large Olympic pools.

Public pools without a diarrhea sign will need to purchase and install such a sign. The proposed regulatory action requires that pool operators must clean swim suits, towels, caps and headgear after each use. However, pool operators are not required to provide these items to pool users so this is not a mandatory additional cost. The proposed regulations also offer alternative performance based methods of compliance rather than prescriptive standards such as allowing other pool water disinfectants in addition to chlorine. Changing chemicals might reduce the cost of operating a public pool. If the operator opts for continuing to use chlorine, CDPH anticipates no additional cost. CDPH also proposes that pool operators be permitted to use one of several methods to determine bacteriological quality of pool water. These methods vary in price and may provide a minor cost saving to public pool owners or a minor increase in

costs depending on the pool operator's decisions and current practices.

The proposed regulations define the maximum and minimum limits for some chemicals and water characteristics of pool water. There is a potential minor cost to add additional chemicals or water or a minor saving to meet water quality standards. The greatest potential cost is for public pools with high levels of cyanuric acid as these public pools may be required to drain approximately 50% of the pool water and replace that water. Most large pools do not use cyanuric acid, and it is not possible to estimate how many small pools currently use this chemical at a high concentration. Given the overall cost of operating and maintaining a public pool, CDPH anticipates that these additional costs are not substantial.

The proposed regulations require that if lifeguards are on duty, they are restricted to performing only life guard services. These proposed regulations will effectively require other staff to perform non-lifeguard services handled by some lifeguards today. The additional cost to meet this new requirement will be the number of hours of non lifeguard activities currently performed by lifeguards. A safety manual must also be purchased or written for lifeguard use. Given most public pools already have safety manuals and limit lifeguards to only performing lifeguard duties, the cost to comply with this requirement should be minor and should affect a limited number of public pools.

Finally, the proposed regulations require the operator to test pool water quality and characteristics and record these and responses to fecal, vomit, diarrhea and drowning incidents. Public pools already must take data daily and respond to fecal, vomit, diarrhea and drowning incidents so CDPH anticipates these new requirements will not create a significant cost. The proposed regulations will also require data and incident records to be maintained for two years at the public pool site.

CDPH has determined that these additional costs are insignificant in light of the existing regulatory requirements and the current overall costs to own, operate and maintain a public pool.

BUSINESS REPORTING REQUIREMENT

Businesses operating a public pool will be required to maintain records of certain public pool daily and monthly water quality and operation data and fecal, vomit, diarrhea and drowning incidents at the public pool site for two years. If multiple diarrhea incidents are reported to the pool operator by lifeguards or pool users, the operator is required to report those incidents to enforcing agents. It is necessary for the health, safety, or welfare of the people of the State that these regulations apply to businesses.

**CONSISTENCY AND COMPATIBILITY WITH
EXISTING STATE REGULATIONS**

CDPH has determined that this proposed regulatory action is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect public pools, CDPH has concluded that no known statute or regulation conflicts with this proposed regulatory action.

ALTERNATIVES CONSIDERED

CDPH must determine that no reasonable alternative considered by CDPH or that has otherwise been identified and brought to the attention of CDPH would be more effective in carrying out the purpose for which this 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

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Eric Trevena, Center for Environmental Health, at (916) 449-5695. All other inquiries concerning the action described in this notice may be directed to Dawn Basciano, Office of Regulations, at (916) 440-7367, or to the designated backup contact person, Linda Cortez, at (916) 440-7807.

In any inquiries or written comments, please identify the action by using the CDPH regulation package identifier, DPH-03-017A.

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

CDPH 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 Dawn Basciano at (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 CDPH's Office of Regulations at least 15 days prior to the date on which CDPH 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, 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**

**CANCELLATIONS, RESCISSIONS, AND
NONRENEWALS
AMENDING SECTIONS 1300.65 AND 1300.65.1
AND ADOPTING SECTION 1300.89.21 OF
TITLE 28.**

**STATE OF CALIFORNIA DEPARTMENT OF
MANAGED HEALTH CARE
Control No. 2013 – 4104**

NOTICE IS HEREBY GIVEN that the Director of the Department of Managed Health Care (Department) proposes to amend the regulation described in the Informative Digest after considering public comments, objections, or recommendations regarding the proposed actions.

I. PROPOSED REGULATORY ACTION — PUBLIC PROCEEDINGS

In this filing, the Department proposes to amend sections 1300.65 and 1300.65.1 of title 28, California Code of Regulations (CCR), and add section 1300.89.21, to implement, interpret and make specific the general concepts set forth in changes made to Health and Safety Code sections 1365 and 1389.21 by way of Assembly Bill 2470. (Stats 2010, ch. 658.) Pursuant to Assembly Bill 2470, these statutes impose limitations on the cancellation, nonrenewal, and rescission of health care service plan contracts by health care service plans (plans) licensed under the Knox–Keene Health Care Service Plan Act of 1975 (Knox–Keene Act). The proposed amendments and addition also provide health care service plan enrollees, subscribers and contract holders with a right to request Department review of such actions, among other things, consistent with federal law under the Patient Protection and Affordable Care Act (PPACA). Proposed amendments to sections 1300.65 and 1300.65.1 also generally implement provisions in Director’s Letter 10–K, issued pursuant to Health and Safety Code section 1365, subdivision (e), on July 1, 2011, which expires on December 31, 2013.

II. WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments or contentions (hereafter referred to as comments) relating to the proposed regulatory action by the Department. Comments must be received by the Department, Office of Legal Services, by 5 p.m. on October 21, 2013, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Regulations Coordinator. Comments may be transmitted by regular mail, fax, email or via the Department’s website:

Website: <http://dmhc.ca.gov/regulations/>
 Email: regulations@dmhc.ca.gov
 Mail: Department of Managed Health Care
 Office of Legal Services
 Attn: Regulations Coordinator
 980 9th Street, Suite 500
 Sacramento, CA 95814
 Fax: (916) 322–3968

Please note: if comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, including via the website, email, fax or mail, should include the author’s

name and a U.S. Postal Service mailing address so the Department may provide commenters with notice of any additional proposed changes to the regulation text.

All comments should include the Department’s rule-making title and control number: **Cancellation, Rescission and Nonrenewal, Control No. 2013–4104.**

If comments are sent via the website, email or fax, there is no need to send hard copies by regular mail. All comments should include the commenter’s name and a U.S. Postal Service mailing address so the Department may provide commenters with notice of any additional proposed change to the regulation.

III. CONTACTS

Inquiries regarding these proposed regulations may be directed to:

Jenny Willis
 Senior Counsel
 Department of Managed Health Care
 Office of Legal Services
 980 9th Street, Suite 500
 Sacramento, California, 95814
 Telephone: (916) 324–9014
 Fax: (916) 322–3968
jwillis@dmhc.ca.gov

OR

Emilie Alvarez
 Regulations Coordinator
 Department of Managed Health Care Office
 of Legal Services
 980 9th Street, Suite 500
 Sacramento, California, 95814
 Telephone: (916) 445–9960
 Fax: (916) 322–3968
ealvarez@dmhc.ca.gov

AVAILABILITY OF DOCUMENTS

The Department has prepared and has available for public review the Initial Statement of Reasons, text of the proposed regulation and all information upon which the proposed regulation is based (“rulemaking file”). This information is available by request to the Department of Managed Health Care, Office of Legal Services, 980 9th Street, Sacramento, CA 95814, Attention: Regulations Coordinator.

The Notice of Proposed Rulemaking Action, the proposed text of the regulation, and the Initial Statement of Reasons are also available on the Department’s website at <http://dmhc.ca.gov/regulations/>, under the heading “Open Pending Regulations.”

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the Regulation Coordinator named above.

IV. PUBLIC HEARING

No public hearing is scheduled. Any interested person, or his or her duly authorized representative, may submit a written request for a public hearing pursuant to Section 11346.8(a) of the Government Code. The written request for a hearing must be received by the Department's contact person, designated below, no later than 15 days before the close of the written comment period.

V. AUTHORITY AND REFERENCE

California Health and Safety Code section 1341, subdivision (a), authorizes the Department to regulate "health care service plans." Health and Safety Code section 1345, subdivision (f)(1), defines a "health care service plan" as "any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost of those services in return for a prepaid or periodic charge paid by or on behalf of subscribers or enrollees."

California Health and Safety Code section 1344 authorizes the Director to adopt, amend and rescind regulations as necessary to carry out the provisions of the Knox-Keene Act, including rules governing applications and reports, and defining any terms, whether or not used in the Knox-Keene Act, insofar as the definitions are not inconsistent with the provisions of the Knox-Keene Act. Furthermore, the Director may waive any requirement of any rule or form in situations where in the Director's discretion such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to the Knox-Keene Act.

California Health and Safety Code section 1346 vests in the Director additional powers to administer and enforce the Act, including but not limited to, the power to study, investigate, research and analyze matters affecting the interests of plans, subscribers, enrollees and the public, and to promote and establish standards of ethical conduct for the administration of health care service plans.

Proposed amendments to CCR sections 1300.65, 1300.65.1, and 1300.89.21 implement, interpret, and make more specific sections 1365 and 1389.21 of the Health and Safety Code. Furthermore, these regulations conform state regulatory practice to federal health care reform requirements adopted in the PPACA, more specifically, title 42, United States Code, sections 300gg-2, 300gg-12, and 300gg-42.

VI. INFORMATIVE DIGEST (Govt. Code § 11346.5(a)(3))

A. SUMMARY OF EXISTING LAWS (Govt. Code § 11346.5(a)(3)(A))

Existing federal law in the Public Health Service Act (PHSA), sections 2703 and 2742, (42 USC sections 300gg-2 and 300gg-42, respectively), enacted as part of the PPACA in March 2010, provides that a health insurance issuer may only nonrenew or discontinue health insurance coverage offered in the group or individual market in one of six enumerated circumstances. The PPACA additionally places restrictions on how and when a health insurer may rescind, or retroactively cancel, health coverage at PHSA section 2712 (42 U.S.C. section 300gg-12).

In California, jurisdiction over "health insurance issuers" is divided between regulation of health insurers and plans by the California Department of Insurance (CDI) and the Department, respectively. The Department's jurisdiction is determined by requirements in the Knox-Keene Act. The Department regulates approximately 61% of the health insurance market.

Prior to the enactment of AB 2470, California law related to cancellation of health plan enrollment or subscriptions in the Knox-Keene Act conflicted with requirements in the PPACA.

Existing state law enacted through AB 2470, at Health and Safety Code section 1365, enumerates the reasons for which a health plan may cancel or nonrenew an enrollment or subscription, and provides "individuals, employers, and contract holders" a right to a request for review of plan cancellations, rescissions or nonrenewals by the Director.

Existing state law at Health and Safety Code section 1389.21 prohibits rescission, defined in federal regulations as cancellation of a plan with retroactive effect, except in instances where the plan can demonstrate the enrollee has performed an act or practice constituting fraud or made an intentional misrepresentation of material fact.

The proposed regulatory amendments and additions:

- Implement provisions in DMHC Guidance that expires on December 31, 2013;
- Bring the existing regulations into compliance with federal and state law;
- Make more specific the consumer protection provisions in Health and Safety Code section 1365 by placing specific timeframes upon Notice of Cancellation requirements consistent with other notice requirements throughout the Knox-Keene Act;

- Make more specific consumer and plan rights and responsibilities under the right to submit a request for review; and,
- Define various terms contained in Health and Safety Code sections 1365 and 1389.21 to clarify and interpret requirements placed on cancellation, rescission and nonrenewal activities and to assist in the implementation of those sections and to relate terminology used only in Health and Safety Code section 1365 to terminology used throughout the Knox–Keene Act.

B. POLICY STATEMENT OVERVIEW — BROAD OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATION (Govt. Code § 11346.5(a)(3)(C))

The broad objective of the proposed regulatory amendment and addition is to implement and make specific statutory limitations on and requirements for plan contract cancellations, rescissions, and nonrenewals. The proposed regulatory amendments and additions also interpret, implement, and make specific requirements related to enrollee, subscriber and contract holder requests for review of cancellations, rescissions and nonrenewals by providing timelines for the submission of requests and for plan and Department responses.

The Department, plans and health consumers will benefit from the proposed regulatory action by way of a transparent, consistent, and predictable process for cancellations and nonrenewals. First, by adopting the proposed regulatory amendments and additions, the Department implements guidance adopted as Director’s Letter 10–K in July 2011 pursuant to Health and Safety Code section 1365(e). The proposed regulatory amendments and additions are necessary because the Director’s Letter expires on December 31, 2013. Additionally, definitions included in the proposed regulations clarify that certain terminations, such as voluntary terminations of coverage or certain eligibility terminations of coverage, are not considered cancellations subject to the requirements of Health and Safety Code section 1365.

Furthermore, the proposed regulatory language places specific timeframes for notice of cancellation on each cancellation type. The public also benefits from implementation of protections such as continuation and reinstatement of coverage, and provisions in the regulatory proposal protect plans by clarifying that enrollees, subscribers, and contract holders remain responsible for premiums, copayments and coinsurance during those periods. By providing clarification and making specific requirements for the notice of cancellation for nonpayment of premiums, plans will be required to separately notify an enrollee, subscriber or contract holder when a plan contract will be cancelled due to nonpay-

ment of premium. Finally, clarifications regarding the grace period for nonpayment of premiums benefit enrollees, subscribers, and contract holders by ensuring the grace period will occur after the period of paid coverage.

C. COMPARABLE FEDERAL LAW (Govt. Code § 11346.5(a)(3)(B))

The proposed regulatory amendments and additions do not differ substantially from existing comparable federal regulations or statutes. The proposed sections conform Department regulations to federal law requirements under the PPACA.

D. CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS (Govt. Code § 11346.5(a)(3)(D))

During the process of developing these regulations and amendments, the DMHC has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory amendments and additions are consistent and compatible with existing state regulations.

VII. SUMMARY OF FISCAL IMPACT DETERMINATIONS

SUMMARY OF FISCAL IMPACT

- Mandate on local agencies and school districts: None.
- Cost or Savings to any State Agency: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Costs to private persons or businesses directly affected: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.
- Other non–discretionary cost or savings imposed upon local agencies: None.

DETERMINATIONS

The Department has made the following initial determinations:

The Department has determined the regulation will not impose a mandate on local agencies or school districts, nor are there any costs requiring reimbursement by Part 7 (commencing with Section 17500) of Division

4 of the Government Code. As specified in Section 6 of AB 2179, no reimbursement is required.

The Department has determined the regulation will have no significant effect on housing costs.

The Department has determined the regulation does not affect small businesses. Health care service plans are not considered a small business under Government Code Section 11342.610(b) and (c).

The Department has determined the regulation will not significantly affect the creation or elimination of jobs within the State of California.

The Department has determined the regulation will not significantly affect the creation of new businesses or the elimination of existing businesses within the State of California.

The Department has determined the regulation will not significantly affect the expansion of businesses currently doing business within the State of California. The Department has determined the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The Department has determined that this regulation will have no cost or savings in federal funding to the state.

VIII. RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (Govt. Code § 11346.5(a)(10))

A. THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA.

The proposed amendments and additions to title 28 of the California Code of Regulations interpret, implement, and make specific state law enacted by AB 2470. Furthermore, the amendments to sections 1300.65, 1300.65.1 and addition of section 1300.89.21 conform the state regulatory scheme to federal requirements under the PPACA. Finally, the amendments and additions implement procedural requirements provided by Director's Letter 10-K, which has provided guidance under Health and Safety Code section 1365, subdivision (e) since July 1, 2011. Since plans are already providing Notices of Cancellation under Director's Letter 10-K, implementing the Director's Letter at this time will not add an additional burden on plans. As Knox-Keene Act licensees are already subject to notice and grievance procedures for review of plan denials under the Knox-Keene Act, the promulgation of the proposed amendments and addition will neither create nor eliminate jobs within the state of California.

B. THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES IN CALIFORNIA.

The proposed amendments and addition to the California Code of Regulations will neither create new

businesses nor eliminate existing businesses. These regulations affect only plans licensed under the Knox-Keene Act, which are also subject to federal law under the PPACA, and are required to comply with state and federal rules related to cancellation, nonrenewal, and rescission of plan contracts. As such, these regulations create no additional requirements that would affect businesses not licensed under the Knox-Keene Act, and will not result in the elimination of existing plan businesses.

C. EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA.

This regulation is intended to clarify and make specific the existing State law for health plans under the Knox-Keene Act. These plans are subject to federal law under the PPACA, and are required to comply with state and federal rules related to cancellation, nonrenewal, and rescission of plan contracts. Therefore, the Department determined the regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

THE BENEFITS OF THE REGULATION TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT.

The proposed regulatory action will provide health consumers enrolled in licensed plans with a predictable process for cancellation, nonrenewal and rescission of plan contracts, provide plans with a level playing field, and ensure consistency across the board for both plans and consumers. The proposed regulatory amendments and additions also make more specific the process for requesting review of these actions by plans, and implements the Department's responsibilities under the review process.

The Department does not anticipate this regulatory action will have any impact on worker safety or the state's environment.

IX. CONSIDERATION OF ALTERNATIVES (Govt. Code § 11346.5(a)(13))

Pursuant to Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which the above 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 per-

sons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the requirements of the proposed regulations during the written comment period.

X. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT (Govt. Code § 11346.5(a)(18))

The Department may, on its own motion or at the recommendation of any interested person, modify the proposed amendment after the public comment period has closed, if the changes are sufficiently related to the original text so the public could have anticipated them.

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

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

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

NOTICE OF INTENT TO LIST: METHYL ISOBUTYL KETONE

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) intends to list the chemical methyl isobutyl ketone (MIBK) as known to the State to cause reproductive toxicity (developmental endpoint) under the Safe Drinking Water and Toxic Enforcement Act of 1986¹. This action is being proposed under the authoritative bodies listing mechanism².

Chemical	CAS No.	Endpoint	Reference	Chemical Use
Methyl isobutyl ketone (MIBK)	108-10-1	Developmental Toxicity	U.S. EPA (2003a; 2003b)	MIBK is used mainly as a coating solvent in cellulose-based and resin-based coating systems; as a separating agent for metals from solutions of their salts and in the mining industries to extract plutonium from uranium; in the production of paints, pesticide formulations, adhesives, wax/oil separation, leather finishing, textile coating, and specialty surfactants for inks and as a denaturant for ethanol formulations.

OEHHA requested information relevant to the possible listing of MIBK in a notice published in the California Regulatory Notice Register on March 13, 2013 (Register 2013, Vol. No. 11-Z). OEHHA received and has responded to one set of comments on this chemical.

Background on listing via the authoritative bodies mechanism: A chemical must be listed under Proposi-

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

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

tion 65³ and its implementing regulations when two conditions are met:

- 1) An authoritative body formally identifies the chemical as causing reproductive toxicity (Section 25306(d)⁴).
- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(g)).

However, the chemical is not listed if scientifically valid data that were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(h)).

The U.S. Environmental Protection Agency (U.S. EPA) is one of several institutions designated as authoritative for the identification of chemicals as causing reproductive toxicity (Section 25306(l)).

OEHHA is the lead agency for implementation of Proposition 65⁵. After an authoritative body has made a determination about a chemical, OEHHA evaluates whether listing under Proposition 65 is required using the criteria contained in the regulations.

OEHHA's determination: *Methyl isobutyl ketone* meets the criteria for listing as known to the State to cause reproductive toxicity under Proposition 65, based on findings of the U.S. EPA (U.S. EPA, 2003a; U.S. EPA, 2003b).

Formal identification and sufficiency of evidence: In 2003, U.S. EPA updated its online Integrated Risk Information System (IRIS) entry for methyl isobutyl ketone (U.S. EPA, 2003a). The inhalation reference concentration (RfC) was based on developmental toxicity manifested as reduced fetal body weight, skeletal variations, and increased fetal death in mice, and skeletal variations in rats. This meets the criterion in Section 25306(d)(1) that the chemical “has otherwise been identified as causing . . . reproductive toxicity by the authoritative body in a document that indicates that such identification is a final action”.

In support of the IRIS entry, a comprehensive review and summary of the available toxicological data was published as a Toxicological Review (U.S. EPA, 2003b). Under the section of that document titled “Major Conclusions in the Characterization of Hazard and Dose Response”, U.S. EPA concludes that:

“The developmental effects in rats and mice after gestational inhalation exposure are considered to be the most clearly adverse effects in the animal database.” (page 42)

The document also states that:

“. . . delayed ossification in rats and mice and reduced fetal body weight and increased fetal death in mice were identified as the critical effects in a substantial database of repeat-dose inhalation studies.” (page 36)

“An RfC of 3 mg/m³ was derived on the basis of effects observed in fetuses after repeated exposure on gestation days 6 to 15 (Tyl et al., 1987). The RfC was based on developmental effects in fetuses reported in a toxicity assay in which maternal exposure occurred only during gestation.” (page 41)

This meets the criterion in Section 25306(d)(1) that the chemical “is the subject of a report which is published by the authoritative body and which concludes that the chemical causes . . . reproductive toxicity”.

OEHHA has also evaluated the studies cited by U.S. EPA in support of its formal identification of methyl isobutyl ketone as causing developmental toxicity relative to the criteria in Section 25306(g). Based on both the U.S. EPA (2003a) IRIS entry and the Toxicological Review document (U.S. EPA, 2003b), and the studies cited in those documents, the criteria for listing methyl isobutyl ketone as known to cause reproductive toxicity by the authoritative bodies mechanism have been met.

Request for comments: OEHHA is requesting comments as to whether *methyl isobutyl ketone* meets the criteria set forth in the Proposition 65 regulations for authoritative bodies listings. In order to be considered, OEHHA must receive **comments by 5:00 p.m. on MONDAY October 7, 2013**. We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.Comments@oehha.ca.gov with “NOIL — methyl isobutyl ketone” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita
Office of Environmental Health
Hazard Assessment
P.O. Box 4010, MS-19B
Sacramento, California
95812-4010
Fax: (916) 323-2265
Street Address: 1001 I Street
Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period.

If you have any questions, please contact Ms. Oshita at Cynthia.Oshita@oehha.ca.gov or at (916) 445-6900.

References

Tyl, R. W., K.A. France, L.C. Fisher, I.M. Pritts, T.R. Tyler, R.D. Phillips and E.J. Moran (1987). “Develop-

³ Health and Safety Code section 25249.8.b.

⁴ All referenced sections are from Title 27 of the Cal. Code of Regulations.

⁵ Health and Safety Code section 25249.12 and Title 27, Cal. Code of Regs., section 25102(o).

mental toxicity evaluation of inhaled methyl isobutyl ketone in Fischer 344 rats and CD-1 mice". Fundam Appl Toxicol 8(3): 310-27.

U.S. EPA (U.S. Environmental Protection Agency) (2003a). Methyl Isobutyl Ketone (MIBK) (CASRN 108-10-1). Integrated Risk Information System. Available online at: <http://www.epa.gov/iris/subst/0173.htm>.

U.S. EPA (U.S. Environmental Protection Agency) (2003b). Toxicological Review of Methyl Isobutyl Ketone; In Support of Summary Information on the Integrated Risk Information System (IRIS). EPA/635/R-03/002. U.S. EPA, Washington DC, March. Available online at: <http://www.epa.gov/iris/toxreviews/0173tr.pdf>.

<p>SUMMARY OF REGULATORY ACTIONS</p>

**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# 2013-0730-01
BOARD OF EQUALIZATION
Interest and Penalties

Existing section 1703 of title 18 of the California Code of Regulations, entitled "Interest and Penalties," lists the sections in the Sales and Use Tax Law (Revenue and Taxation Code, section 6001 et seq.) that apply to the calculation of, imposition of, or relief from interest and penalties, and incorporates, implements, and provides additional notice of important statutory provisions applicable to the calculation of, imposition of, and relief from interest and penalties. Effective January 1, 2011, section 6591.6 was added to the Revenue and Taxation Code (RTC) by Senate Bill No. 1028 (Stats. 2010, ch. 316). RTC section 6591.6 authorizes the Members of the Board, meeting as a public body, to find, under specified circumstances, that it is inequitable to compute interest on a monthly basis and to instead compute interest on a daily basis. The State Board of Equalization (BOE) amended section 1703 of title 18 of the California Code of Regulations to add RTC section 6591.6 to the list and to add substantive provisions originating from RTC section 6591.6. BOE also proposed

by this filing to make minor corrections to section 1703. This filing was submitted as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations.

Title 18
California Code of Regulations
AMEND: 1703
Filed 08/28/2013
Agency Contact:
Richard E. Bennion (916) 445-2130

File# 2013-0718-05
CALIFORNIA ENERGY COMMISSION
Renewables Portfolio Standard

This rulemaking action implements Senate Bill X1-2 (Chapter 1 of the Statutes of 2011) by adding regulations to Title 20 of the California Code of Regulations which will specify procedures for the enforcement of the Renewables Portfolio Standard (RPS) on local, publicly-owned utilities (POUs) so as to increase the amount of electricity generated from eligible renewable energy sources.

Title 20
California Code of Regulations
ADOPT: 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 1240
Filed 08/28/2013
Effective 10/01/2013
Agency Contact: Angela Gould (916) 654-4881

File# 2013-0814-01
CALIFORNIA PRISON INDUSTRY AUTHORITY
Conflict of Interest Code

This is an adoption to a Conflict of Interest Code that has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

OAL filed this regulation(s) or order(s) of repeal with the Secretary of State, and will publish the regulation(s) or order(s) of repeal in the California Code of Regulations.

Title 15
California Code of Regulations
ADOPT: 8125
Filed 08/27/2013
Effective 09/26/2013
Agency Contact: Jeff Sly (916) 358-1711

File# 2013-0807-03
DEPARTMENT OF FISH AND WILDLIFE
Falconry Fees and Forms

The Department of Fish and Wildlife amended section 703 of title 14 of the California Code of Regulations to establish fees and forms for falconry in California.

Title 14
California Code of Regulations
AMEND: 703
Filed 08/27/2013
Effective 01/01/2014
Agency Contact:
Mike Randall (916) 653-4678

File# 2013-0806-03
DEPARTMENT OF INSURANCE
Conflict of Interest Code

This is an amendment to a Conflict of Interest Code that has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 10
California Code of Regulations
AMEND: 2690, 2690.1, 2690.2
Filed 08/27/2013
Effective 09/26/2013
Agency Contact:
Lisbeth Landsman-Smith (916) 492-3561

File# 2013-0819-05
DEPARTMENT OF JUSTICE
Department of Business Oversight Bond Form

This file and print action renumbers Title 11, California Code of Regulations, Article 50, section 101.2 to Article 6, section 31.26 to reflect the change of name from State Banking Department to Department of Business Oversight.

Title 11
California Code of Regulations
ADOPT: 31.25
REPEAL: 101.1
Filed 08/21/2013
Effective 08/21/2013
Agency Contact: Karen W. Yiu (415) 703-5385

File# 2013-0819-06
DEPARTMENT OF JUSTICE
Department of Business Oversight Bond Form

This file and print action renumbers Title 11, California Code of Regulations, Article 50, section 101.1 to Article 6, section 31.25 to reflect the change of name from the State Banking Department to Department of Business Oversight.

Title 11
California Code of Regulations
ADOPT: 31.26
REPEAL: 101.2
Filed 08/21/2013
Effective 08/21/2013
Agency Contact: Karen W. Yiu (415) 703-5385

File# 2013-0819-04
DEPARTMENT OF JUSTICE
Department of Business Oversight Bond Form

This file and print action amends Title 11 of the California Code of Regulations, Article 6, section 31.7, to revise the Bond of Escrow Licensee form to reflect the change of name from Department of Corporations to Department of Business Oversight.

Title 11
California Code of Regulations
AMEND: 31.7
Filed 08/21/2013
Effective 08/21/2013
Agency Contact: Karen W. Yiu (415) 703-5385

File# 2013-0718-03
DEPARTMENT OF TOXIC SUBSTANCES
CONTROL
Safer Consumer Products

This regulatory action establishes a list of Candidate Chemicals and provides for a process to identify additional chemicals. It also describes the process for evaluating and prioritizing consumer products that contain these chemicals and creating a Priority Products list. Responsible entities (manufacturers, assemblers, retailers and importers) are required to notify the Department if their product is listed and then, unless they meet specified exemptions, perform an alternatives analysis to determine ways to limit exposure and adverse impacts on public health and the environment. After the alternatives analysis, the Department may implement one or more regulatory responses to protect public health and/or the environment. This action also provides for audits related to these processes, dispute resolution arising from these processes and provides for assessment of trade-secret claims made to the Department.

Title 22
California Code of Regulations
ADOPT: 69501, 69501.1, 69501.2, 69501.3, 69501.4, 69501.5, 69502, 69502.1, 69502.2, 69502.3, 69503, 69503.1, 69503.2, 69503.3, 69503.4, 69503.5, 69503.6, 69503.7, 69504, 69504.1, 69505, 69505.1, 69505.2, 69505.3, 69505.4, 69505.5, 69505.6, 69505.7, 69505.8, 69505.9, 69506, 69506.1, 69506.2, 69506.3, 69506.4, 69506.5, 69506.6, 69506.7, 69506.8, 69506.9, 69506.10, 69507, 69507.1, 69507.2, 69507.3, 69507.4, 69507.5, 69507.6, 69508, 69509, 69509.1, 69510
Filed 08/28/2013
Effective 10/01/2013
Agency Contact:
Manpreet K. Singh (916) 322-2543

File# 2013-0808-04
FISH AND GAME COMMISSION
 Practice of Falconry

In July 2009, the U.S. Fish and Wildlife Service (Service) revised 50 CFR 21.28 and 21.29 to remove federal permitting for falconry. 50 CFR 21.29(b) now requires that before falconry may be practiced in any state, the state must approve the practice by issuing permits under its own laws and regulations and must submit copies of its regulations pertaining to falconry, including falconry permit requirements, to the Service. The state regulations must meet the federal standards established under 50 CFR 21.29. Certification of the state regulations must be published in the Federal Register no later than January 1, 2014 at which point federal permitting will end and individual states will not be able to allow the practice of falconry if their regulations have not been approved and certified by the Service. The Fish and Game Commission amended section 670 of title 14 of the California Code of Regulations to comply with 50 CFR 21.29 by establishing a permit program that meets the federal requirements. The Fish and Game Commission also repealed section 678 of title 14 of the California Code of Regulations on captive propagation and cover the subject in revised section 670.

Title 14
 California Code of Regulations
 AMEND: 670
 REPEAL: 678
 Filed 08/27/2013
 Effective 01/01/2014
 Agency Contact: Jon Snellstrom (916) 653-4899

File# 2013-0719-01
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 Airborne Contaminants — Ethylbenzene

This rulemaking action amends Title 8, section 5155 of the California Code of Regulations by reducing the employee Permissible Exposure Limits (PELs), for ethylbenzene at all places of employment in the state. Both the 8-hour time-weighted average (TWA) and short-term exposure limits (STELs) are reduced.

Title 8
 California Code of Regulations
 AMEND: 5155
 Filed 08/27/2013
 Effective 10/01/2013
 Agency Contact: Marley Hart (916) 274-5721

File# 2013-0712-01
PUBLIC EMPLOYMENT RELATIONS BOARD
 MMBA Factfinding Determination Appeals

This regulatory action by the Public Employment Relations Board allows for the appeal of a determination of the sufficiency of a factfinding request made pursuant to the Meyers-Milius-Brown Act (MMBA) of 1968.

Title 8
 California Code of Regulations
 AMEND: 32147, 32380, 32802
 Filed 08/22/2013
 Effective 10/01/2013
 Agency Contact: Katharine Nyman (916) 327-8386

File# 2013-0725-01
STATE ALLOCATION BOARD
 Leroy F. Greene School Facilities Act of 1998; Non-Participating PIF

This Certificate of Compliance provides for the rescission of specified school bond funding for construction projects with unfunded approvals and the return of the funds to the appropriate program for reallocation to other projects that are ready to move forward. (Previous OAL file #2013-0315-04E)

Title 2
 California Code of Regulations
 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
 Filed 08/23/2013
 Agency Contact: Lisa Jones (916) 376-1753

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN April 3, 2013 TO
 August 28, 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
 08/23/13 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
 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

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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

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)

Title 4

08/16/13 ADOPT: 10170.1, 10170.2, 10170.3, 10170.4, 10170.5, 10170.6, 10170.7, 10170.8, 10170.9, 10170.10, 10170.11, 10170.12, 10170.13, 10170.14, 10170.15
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, 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

06/03/13 AMEND: 5170, 5190, 5205, 5212, 5230, 5250
05/23/13 ADOPT: 12364 AMEND: 12004
05/22/13 ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060
05/16/13 AMEND: 10192, 10193, 10194, 10195, 10196, 10197, 10198
05/16/13 ADOPT: 5255, 5256 AMEND: 5170, 5230, 5250, 5560, 5580
05/03/13 AMEND: 1843.2
05/02/13 AMEND: 1658
04/23/13 AMEND: 8035(e)
04/08/13 ADOPT: 8035.5

Title 5

08/12/13 AMEND: 58312
08/12/13 AMEND: 80003, 80004, 80048.6
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
06/12/13 ADOPT: 19847 AMEND: 19816, 19816.1, 19818, 19824, 19829, 19837.3
06/05/13 AMEND: 19816, 19816.1, 19839
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
05/14/13 ADOPT: 30737, 30738 AMEND: 30730, 30731, 30733, 30734, 30736
05/01/13 AMEND: 80054
04/03/13 ADOPT: 41906.6

Title 8

08/27/13 AMEND: 5155
08/22/13 AMEND: 32147, 32380, 32802
08/19/13 ADOPT: 32999, 33000, 33001, 33002, 33003, 33004, 33005, 33006, 33007, 33008, 33009, 33010, 33011, 33012, 33013

08/13/13	ADOPT: 9795.1.5, 9795.1.6, 9795.5 AMEND: 9795.1, 9795.3	7302, 7310, 7312, 7320, 7321, 7322, 7330, 7332
08/13/13	ADOPT: 15209 AMEND: 15201, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496, 15497	
08/01/13	AMEND: 5199(g)(3)(B)	
07/23/13	AMEND: 1933, 5541, 5543, 5559, 5600, 6170	
07/02/13	AMEND: 3329	
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. AMEND: 9792.5.1., 9792.5.3, 9793, 9794, 9795	
07/01/13	AMEND: 5197	
07/01/13	AMEND: 9795.1, 9795.3	
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 AMEND: 9785, 9792.6, 9792.9, 9792.10, 9792.12	
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	
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	
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	
06/24/13	AMEND: 8352	
05/30/13	AMEND: 4994	
05/08/13	AMEND: 5004(d)(2)	
05/07/13	AMEND: 17000 Appendix	
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	
04/24/13	AMEND: 2940.8	
04/15/13	AMEND: 354, 371.2, 373, 376.1, 386	
Title 9		
06/06/13	ADOPT: 14200, 14210, 14220, 14230, 14240	
05/09/13	AMEND: 7156, 7158.8, 7159, 7160, 7160.5, 7161.5, 7162, 7163, 7211, 7263,	
Title 10		
08/27/13	AMEND: 2690, 2690.1, 2690.2	
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	
Title 11		
08/21/13	ADOPT: 31.25 REPEAL: 101.1	
08/21/13	ADOPT: 31.26 REPEAL: 101.2	
08/21/13	AMEND: 31.7	
08/06/13	AMEND: 1955	
07/08/13	AMEND: 1005, 1007, 1008	
Title 13		
08/15/13	AMEND: 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711	
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	
Title 14		
08/27/13	AMEND: 703	
08/27/13	AMEND: 670 REPEAL: 678	
08/19/13	AMEND: 1299.03(b)(2)(A)	
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, 708.9	
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	

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Title 15

08/27/13 ADOPT: 8125
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

Title 16

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,
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
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,
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,
2526.1, 2527, 2529, 2530, 2535, 2562,
2575, 2580, 2581, 2581.1, 2582, 2584,
2585, 2885.1
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,
4181
06/20/13 AMEND: 1379.50
06/10/13 ADOPT: 5.5, 18, 19, 20, 21, 22 AMEND:
21 (renumbered to 36.1), 26, 98
06/06/13 AMEND: 2006

05/20/13 AMEND: 4402
05/17/13 ADOPT: 3340.4 AMEND: 3340.1,
3340.43
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
04/08/13 AMEND: 40, 43, 45

Title 17

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
06/13/13 ADOPT: 56068, 56069, 56070, 56071,
56072, 56073, 56074, 56620, 56621,
56622, 56623, 56624, 56625 AMEND:
56101
05/06/13 ADOPT: 54521, 54522, 54523, 54524,
54525, 54526, 54527, 54528, 54529,
54530, 54531, 54532, 54533, 54534,
54535 AMEND: 54500, 54505, 54520
REPEAL: 54521, 54522, 54523, 54524,
54525
04/25/13 AMEND: 94508, 94509

Title 18

08/28/13 AMEND: 1703
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

Title 19

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	Title 23	
Title 20		08/07/13	ADOPT: 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016
08/28/13	ADOPT: 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 1240	08/07/13	ADOPT: 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016
04/18/13	ADOPT: 1680, 1681, 1682, 1683, 1684	07/26/13	ADOPT: 3979.6
Title 21		07/03/13	AMEND: 595
06/24/13	ADOPT: 2653, 2654, 2655, 2656, 2657, 2658	07/01/13	ADOPT: 3007
Title 22		06/24/13	ADOPT: 3919.13
08/28/13	ADOPT: 69501, 69501.1, 69501.2, 69501.3, 69501.4, 69501.5, 69502, 69502.1, 69502.2, 69502.3, 69503, 69503.1, 69503.2, 69503.3, 69503.4, 69503.5, 69503.6, 69503.7, 69504, 69504.1, 69505, 69505.1, 69505.2, 69505.3, 69505.4, 69505.5, 69505.6, 69505.7, 69505.8, 69505.9, 69506, 69506.1, 69506.2, 69506.3, 69506.4, 69506.5, 69506.6, 69506.7, 69506.8, 69506.9, 69506.10, 69507, 69507.1, 69507.2, 69507.3, 69507.4, 69507.5, 69507.6, 69508, 69509, 69509.1, 69510	06/04/13	ADOPT: 3939.45
08/19/13	ADOPT: 70438.2	06/03/13	AMEND: 5000
05/30/13	AMEND: 70723, 71523, 71835, 72535, 73525, 74723, 75051, 75335, 76539, 76874, 76919, 78429, 79331, 79781, 79795, 79805	04/25/13	AMEND: 2920
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	Title 27	
05/15/13	ADOPT: 66274.1, 66274.2, 66274.3, 66274.4, 66274.5, 66274.7, 66274.8	08/08/13	AMEND: 25805
		07/11/13	AMEND: 25805
		06/25/13	AMEND: 25805
		04/10/13	AMEND: 25805
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		07/05/13	ADOPT: 1300.67.005
		04/08/13	ADOPT: 1300.74.73
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