



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person beginning October 26, 2012 and ending at 5:00 p.m., December 10, 2012. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, 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 407, Food and Agricultural Code and section 11400.20 of the Government Code, and to implement, interpret or make specific sections 9166, 9641.5, 10341, 10342, 10610, 10721, 16101, 16151, 16152, 16153, 16154, 16501, 16521, 16522, 16522.5, 16523, 16524, 16525, 16526, 16527, 16901, 16902, 16903, 16904, 16905, 16906, 16907, 16908, 16909, 17150, 17151, 17152, 17153, 17551, 17552, 17553, 20222, 20604, 20605, 20606, 20607, 20608, 20609, 20610, 20901, 20902, 20903, 20904, 20905, 20906, 21453, 21455, 21456, 21457, 21458, 21459, 21482, 21531, 21532, 21561, 21562, 21563, 21563.5, 21565, 21702, 21702.1, 21703, 21704, 21705, 21706, 21707,

21708, 21709, 21710, 21852, 21855, 21856, 21881, 21882, 21844, 21886, 22001, 22001.5, 22002, 22003, 22004, 22004.1, 22006, 22008, 22009, 22010, 23251, 23801, 23802 and 23981, Food and Agricultural Code; Article 4 (commencing with section 10351), Chapter 3, Part 2, Division 5, Food and Agricultural Code; Article 2 (commencing with section 17041), Article 3 (commencing with section 17061), Article 4 (commencing with section 17091) and Article 5 (commencing with section 17121 of Chapter 7, Part 1, Division 9, Food and Agricultural Code; Article 1 (commencing with section 21051), Article 2 (commencing with section 21081), Article 3 (commencing with section 21111), Article 4 (commencing with section 21141), Article 6 (commencing with section 21201), Article 7 (commencing with section 21231), Article 9 (commencing with section 21281) and Article 10 (commencing with section 21321) of Chapter 6, Division 10, Food and Agricultural Code; Chapter 8 (commencing with section 24000), Division 11, Food and Agricultural Code; Article 2 (commencing with section 32731), Chapter 2, Part 1, Division 15, Food and Agricultural Code; and Article 4 (commencing with section 32761), Chapter 2, Part 1, Division 15, of the Food and Agricultural Code, the Department proposes to amend sections 1310 and 1310.1 of Article 1, Chapter 9, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW/BENEFITS

The Department proposes to amend sections 1310 and 1310.1 of Article 1, Chapter 9, Division 2 of Title 3 of the California Code of Regulations to add specified provisions of the Food and Agricultural Code to the Department's informal hearing process and to make a technical change, as specified.

Food and Agricultural Code sections 9562 and 9570 authorize the State Veterinarian to quarantine animals or animal products if there is any serious threat to public health and safety, or the safety of the State's food supply. Sections 1301.2 and 1301.3 of Title 3 of the California Code of Regulations specify the informal hearing procedures for a person to contest a quarantine order issued by the State Veterinarian. For violations that do not result in an immediate quarantine order, the Department would serve a notice of adverse determination against an individual. Regulations currently exist, sections 1310–1310.3 of Title 3 of the California Code of Regulations, which allow a person to appeal such adverse determinations to the Department through an informal hearing process.

This proposal amends section 1310 to allow a person in violation of specified provisions of the Food and Agricultural Code the immediate access to an internal,

informal hearing process, and provides the opportunity for a person to present and rebut evidence in a timely manner pursuant to Government Code section 11445.10, et seq. This proposal also includes a technical change in section 1310.1 to update the mailing address of the Department.

Based on an initial evaluation, the Department does not believe that the proposed regulations are inconsistent or incompatible with existing state or federal regulations.

This proposal benefits both the Department and the public. The purpose is to provide the informal hearing process to persons found to be in violation of specified provisions of the Food and Agricultural Code who are issued adverse determinations by the Department. The intent is to handle certain, less grievous offences in a cost-effective and timely manner.

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 et seq. Require Reimbursement: None.

Business Impact: The Department has made an initial determination that the proposed regulatory action will not have any significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulation only affects persons found to be in violation (after examination of the complaint and evidence) of specified provisions of the Food and Agricultural Code pertaining to the authority of the Bureau of Livestock Identification (for example, violations for agriculture-related misdemeanors that are typically small penalties of \$500 or less).

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Department 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 fact that the proposed regulation only affects persons found to be in violation (after examination of the complaint and evidence) of specified provisions of the Food and Agricultural Code pertaining to the authority of the Bureau of Livestock Identification (for example, violations for agriculture-related misdemeanors that are typically small penalties of \$500 or less).

As part of its Economic Impact Assessment, the Department 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 it will not create or eliminate jobs or occupations. The Department's proposal does not impact multiple industries.

Small Businesses: The Department's proposal may affect small businesses.

Occupations/Businesses Impacted: The Department has made an initial determination that this regulatory proposal will impact any person (after examination of a complaint and evidence) found to be in violation of specified agriculture-related provisions of the Food and Agricultural Code.

Business Reporting Requirement: The regulation does not require a report, which shall apply to businesses.

Comparable Federal Regulations: This proposal does not duplicate or conflict with federal regulations.

Documents Incorporated by Reference: None.

Document(s) Relied Upon in Preparing Regulations: Economic Impact Assessment.

CONSIDERATION OF ALTERNATIVES

The Department of Food and Agriculture (Department) must determine that no reasonable alternative considered 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 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 hearing (if a hearing is requested) or during the written public comment period.

INITIAL STATEMENT OF REASONS
AND INFORMATION

The Department of Food and Agriculture has prepared an initial statement of 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 the information upon which the proposal is based, may be obtained by contacting the persons named below or by accessing the Department of Food and Agriculture's website as indicated below in this Notice.

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 persons named below.

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

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations, or any written comments concerning this proposal are to be addressed to the following:

Greg Lawley, Branch Chief
Department of Food and Agriculture
Bureau of Livestock Identification
Mailing: 1220 N Street
Sacramento, CA 95814
(916) 900-5000
E-mail: greg.lawley@cdfa.ca.gov

The backup contact person is:

Nancy Grillo, Associate Analyst
Department of Food and Agriculture
Animal Health and Food Safety Services
Mailing: 1220 N Street
Sacramento, CA 95814
(916) 900-5033
E-mail: nancy.grillo@cdfa.ca.gov

Website Access: Materials regarding this proposal can be found by accessing the following Internet address: <http://www.cdfa.ca.gov/ahfss/regulations.html>.

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

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

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

PUBLIC MEETING: On **December 13, 2012**,
at 10:00 a.m.
in the Auditorium, Room 102
of the Social Services,
Office Building 9,
744 P Street, Sacramento,
California.

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

PUBLIC HEARING: On **December 13, 2012**,
following the Public
Meeting,
in the Auditorium, Room 102
of the Social Services,
Office Building 9,
744 P Street, Sacramento,
California.

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

BUSINESS MEETING: On **December 13, 2012**,
following the Public
Hearing,
in the Auditorium, Room 102
of the Social Services, Office
Building 9,
744 P Street, Sacramento,
California.

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

DISABILITY ACCOMMODATION NOTICE:

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

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

**NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS**

**BY THE OCCUPATIONAL SAFETY AND
HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **December 13, 2012**.

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7,
Article 59, Section 4309
**Horizontal Pull Saw (Radial Arm
Saw) Guarding**

Descriptions of the proposed changes are as follows:

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7,
Article 59, Section 4309
**Horizontal Pull Saw (Radial Arm
Saw) Guarding**

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

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking to amend Section 4309(a) of the General Industry Safety Orders to be consistent with Federal OSHA regulations 29 CFR 1910.213(h)(1) and 1926.304(g)(1). This rulemaking action proposes requiring that radial arm saw blades be completely guarded for operator protection. The need to amend this subsection was originally brought to the attention of Board staff through informal discussions with the Division of Occupational Safety and Health (Division). The Division representative noted that the language in Title 8, Section 4309(a) is significantly less protective than the equivalent Federal OSHA regulation and that action should be taken to render Title 8 at least as effective as (ALAEA) the federal counterpart language with regard to this issue.

The proposed amendment adds language to Section 4309(a) requiring the full diameter of the saw blade be enclosed and not just the upper half of the blade and the arbor ends as is currently mandated. With the exception of the first sentence, the proposed new language duplicates 29 CFR 1910.213(h)(1) and 1926.304(g)(1). Although very similar, Board staff proposes using existing subsection 4309(a) language in lieu of Federal OSHA's first sentence, as it is clearer in the statement of its intent with respect to the blade guard enclosing the arbor ends. The remaining federal language is added verbatim to Section 4309(a). A phrase based on staff discussion with stakeholder subject-matter experts is inserted in the last sentence to clarify that the lower blade device, such as a leaf guard or chain, provides a physical barrier and visual warning to give maximum protection. Without the proposal, Title 8 is not ALAEA the federal regulation for radial arm saw blade guarding. The Board is required to promulgate standards that are ALAEA the federal standards for all issues addressed by Federal OSHA per Labor Code Section 142.3(a)(2).

Board staff notes that the American National Standards Institute (ANSI) O1.1-2004 standard, Woodworking Machinery—Safety Requirements, states in Chapter 5.2.5.2 that the manufacturer is to provide a

lower blade guard that covers the sides of the maximum diameter blade and that it be designed to automatically adjust to the thickness of the workpiece. The purpose of the guarding is to prevent cuts and amputations should the operator's fingers contact the rotating saw blade. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is "the only agency in the state authorized to adopt occupational safety and health standards." When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Duplicates federal language requiring that the full diameter of the saw blade be enclosed by a device that automatically adjusts to the stock being cut. The proposal will ensure that Title 8 is ALAEA the federal standards. The existing language in Title 8 is retained in lieu of Federal OSHA's first sentence, as it is clearer in the statement of its intent with respect to the blade guard enclosing the arbor ends.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that the state regulations be at least as effective as their federal counterparts.
- Is the least burdensome effective alternative. The proposal is consistent with existing federal standards and American National Safety Institute recommendations for providing upper hood enclosures and lower blade guards.

Section 4309. Horizontal Pull Saws (Radial Arm Saw)

Existing Section 4309 establishes requirements for the installation of safety devices and use limitations of horizontal pulls saws also known as radial arm saws.

Subsection (a)

Existing subsection 4309(a) requires the saw blade be encased on both sides such that at least the upper half of the blade and the arbor ends are completely covered. This amendment will add language commensurate with

federal requirements that the lower exposed portion of the blade shall be guarded to the full diameter of the blade. The lack of a lower blade protection device exposes employees to potentially serious hand injuries from cuts or amputations.

The proposed amendment will render Title 8 ALAEA the federal standards as it pertains to radial arm saw blade guarding as required by Labor Code Section 142.3(a)(2). Clarifying the regulatory language will provide enhanced safety, ensure consistency and eliminate the discrepancy between existing Section 4309 and the federal standard.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

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

Impact on Housing Costs

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

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

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal is intended to be ALAEA the federal standard which provides specific guidance on blade guarding that is clearly lacking in Title 8. The purpose of the guarding is to prevent cuts and amputations should the operator's fingers contact the rotating saw blade.

Retrofitting of older saws is not necessary as lower blade guards have been required under federal standards for many years. Further, ANSI O1.1-1975, paragraph 6.1.9.1 permitted the use of a leaf guard or similar type of guarding which Federal OSHA accepts as an alternate method of meeting the intent of 29 CFR 1910.213(h)(1). With these guarding options, employers will not need to retrofit existing saws to accept the proposed guarding requirement but rather to reinstall or replace the original equipment guard that was provided with the saw.

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

This regulatory proposal is intended to provide worker safety at places of employment in California.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

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

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

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

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

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

DETERMINATION OF MANDATE

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

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

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

This proposed regulation does not impose unique requirements on local governments. All state, local and

private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES AND
RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. The proposal would provide businesses, small or large, clear direction in requiring that the full diameter of the saw blade be enclosed. This regulatory proposal will promote worker safety and protect employees from the hazards of cuts, lacerations and amputations to the fingers and hand.

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

ALTERNATIVES STATEMENT

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

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

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

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than **December 7, 2012**. The official record of the rule-making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on **December 13, 2012**, will not be considered by the Board unless the Board announces an exten-

sion of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based is open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

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

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

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

TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

The Public Employment Relations Board (PERB or Board) proposes to adopt, renumber, repeal, or amend the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

REGULATORY ACTION

The Board proposes to adopt sections 32056 and 32121 in Title 8, Division 3, Chapter 1, Subchapter 2, Article 1; amend sections 32100, 32150, 32155, 32300, 32305, 32310, 32315, 32320, 32350, 32360, 32370, 32375, 32380 and 32410 of PERB's Regulations (except for sections 32100, 32150 and 32155, only authority and reference citations are affected); move Section 17300 from Title 8, Division 1, Chapter 8, Subchapter 7, Article 1, and renumber and amend the section in Title 8, Division 3, Chapter 1, new Subchapter 9; and

move Sections 15800 through 15875.1 from Title 8, Division 1, Chapter 8, Subchapter 2.2, and renumber and amend the regulations in Title 8, Division 3, new Chapter 9.

Senate Bill 1038 (Statutes of 2012, Chapter 46) transferred the State Mediation and Conciliation Service (SMCS) from the Department of Industrial Relations (DIR) to PERB. In part, Senate Bill 1038 provides, at Government Code section 3603(c), that "The regulations of the Director of Industrial Relations at Subchapter 2.2 (Sections 15800 to 15875.1, inclusive) and Subchapter 7 (Section 17300) of Chapter 8 of Division 1 of Title 8 of the California Code of Regulations shall remain in effect and shall be deemed to be regulations of the Public Employment Relations Board." The regulations identified in Government Code section 3603(c) address, respectively, representation procedures for those transit districts that are not subject to the Meyers-Miliias-Brown Act (MMBA), and the current reimbursement for services policy of SMCS.

PERB is proposing amendments to the DIR regulations referenced above; for the most part, the effort is intended simply to reflect the transfer of responsibility from DIR and the DIR Director to PERB and to update/correct statutory references, while maintaining the status quo. The only substantive change proposed, other than those required by enactment of Senate Bill 1038, concerns the elimination of charges by SMCS for the conduct of representation (certification, decertification, etc.) elections, card check procedures, and agency shop elections. In addition, two new regulation sections are proposed to provide necessary definitions within PERB's regulations, and amendments to a few existing regulations are proposed to reflect the addition of SMCS to PERB (and to distinguish mediators from other Board agents, where appropriate).

PUBLIC HEARING

The Board will hold a public hearing at 10:00 a.m., on December 13, 2012, in Room 103 of its headquarters building, located at 1031 18th Street, Sacramento, California. Room 103 is wheelchair accessible. At the hearing, any person may orally present statements or arguments relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing. Any person wishing to testify at the hearing is requested to notify the Office of the General Counsel as early as possible by calling (916) 322-3198 to permit the orderly scheduling of witnesses and to permit arrangements for an interpreter to be made if necessary.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on December 11, 2012. Written comments will also be accepted at the public hearing. Submit written comments to:

Jonathan Levy, Regional Attorney
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811
(916) 327-8387
FAX: (916) 327-6377
E-mail: jlevy@perb.ca.gov

or

Katharine Nyman, Regional Attorney
Public Employment Relations Board
1031 18th Street
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AUTHORITY AND REFERENCE

Pursuant to Government Code section 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Educational Employment Relations Act (EERA). Pursuant to Government Code sections 3509(a) and 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Meyers-Milius-Brown Act (MMBA). Government Code section 3513(h) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Ralph C. Dills Act (Dills Act). Government Code section 3563 authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Higher Education Employer-Employee Relations Act (HEERA). Pursuant to Public Utilities Code section 99561(f), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA). Pursuant to Government Code sections 3541.3(g) and 71639.1(b), the Board is authorized to adopt, amend and repeal rules and regula-

tions to carry out the provisions and effectuate the purposes and policies of the Trial Court Governance and Employment Protection Act (Trial Court Act). Pursuant to Government Code sections 3541.3(g) and 71825(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act). Pursuant to Senate Bill 1038; Statutes of 2012, Chapter 46, Government Code section 3603(c) states, "The regulations of the Director of Industrial Relations at Subchapter 2.2 (Sections 15800 to 15875.1, inclusive) and Subchapter 7 (Section 17300) of Chapter 8 of Division 1 of Title 8 of the California Code of Regulations shall remain in effect and shall be deemed to be regulations of the Public Employment Relations Board."

General reference for proposed section 32056: Section 3600, Government Code. General reference for proposed section 32121: Sections 3600, 3601, 3603, and 3611, Government Code; and Sections 25051, 25052, 28850, 28851, 30750, 30751, 30754, 30756, 40120, 40122, 50120, 50121, 70120, 70122, 90300, 95650, 95651, 98162.5, 100301, 100305, 100306, 101341, 101342, 101344, 102401, 102403, 103401, 103404, 103405, 103406, 125521, 125526, Appendix 1, Sections 4.2 and 4.4, and Appendix 2, Sections 13.90, 13.91, and 13.96, Public Utilities Code. General reference for section 32100: Section 19604, Business and Professions Code; Section 57031, Food and Agricultural Code; Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509, 3513(h), 3541.3, 3563, 3600, 3601, 3602, 3603, 3611, 71632.5, 71636, 71636.1, 71636.3, 71637, 71637.1, 71639.1, 71823 and 71825, Government Code; Section 2686, Labor Code; and Sections 25051, 25052, 28850, 28851, 30750, 30751, 30754, 30756, 40120, 40122, 50120, 50121, 70120, 70122, 90300, 95650, 95651, 98162.5, 99561, 100301, 100305, 100306, 101341, 101342, 101344, 102401, 102403, 103401, 103404, 103405, 103406, 125521, 125526, Appendix 1, Sections 4.2 and 4.4, and Appendix 2, Sections 13.90, 13.91, and 13.96, Public Utilities Code. General reference for section 32150: Sections 3509, 3513(h), 3541.3(h), 3563(g), 3601, 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for section 32155: Sections 3509, 3509.5, 3513, 3520, 3541.3, 3542, 3563, 3564, 71639.1, 71639.4, 71825 and 71825.1, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561, 99562, 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32300: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections

4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32305: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32310: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32315: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32320: Sections 3509, 3513(h), 3514.5, 3541.3(k), 3541.3(n), 3563(j), 3563(m), 3563.2, 11425.60, 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 99561.2, 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32350: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32360: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32370: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32375: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 100301, 101344,

102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32380: Sections 3505.4, 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for section 32410: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for proposed section 32998: Sections 3600, 3601, 3602, 3603, and 3611, Government Code; Sections 25051, 25052, 28850, 28852, 30750, 30751, 30756, 40120, 40122, 50120, 50121, 70120, 70121, 95650, 95651, 98162.5, 100301, 100304, 100305, 100306, 101341, 101342, 101344, 102401, 102403, 103401, 103404, 103405, 103406, 120502, 120503, 120505, 125521, 125524, 125525 and 125526; Appendix 1, Section 4.1 and Appendix 2, Section 13.90, Public Utilities Code; Section 11010, Government Code; and Sections 8740 and 8752, State Administrative Manual. General reference for proposed section 93000: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor–Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93005: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. Additional reference: Labor–Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Section 102.60–102.72. General reference for proposed section 93010: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Section 102.60–102.72. General reference for proposed section 93015: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Section 102.60–102.72. General reference for proposed section 93020: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5,

100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93025: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93030: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93035: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93040: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93045: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93050: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93055: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93060: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional refer-

ence: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93065: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93070: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93075: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for proposed section 93080: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300(b), 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72.

POLICY STATEMENT OVERVIEW

PERB is a quasi-judicial agency which oversees public sector collective bargaining in California. PERB presently administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB are: the Meyers–Milius–Brown Act (MMBA) of 1968, which established collective bargaining for California’s city, county, and local special district employers and employees; the Educational Employment Relations Act (EERA) of 1976 establishing collective bargaining in California’s public schools (K–12) and community colleges; the State Employer–Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act), establishing collective bargaining for state government employees; the Higher Education Employer–Employee Relations Act (HEERA) of 1979 extending the same coverage to the California State University System, the University of California System and Hastings College of Law; the Los Angeles County Metropolitan Transportation Authority Transit Employer–Employee Relations Act (TEERA) of 2003, which covers supervisory employees of the Los Angeles County

Metropolitan Transportation Authority; and the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002, which together provide for collective bargaining rights for most trial court employees. PERB also now has jurisdiction over the In-Home Supportive Services Employer-Employee Relations Act of 2012 (IHSSA), which is applicable to certain in-home supportive services providers, but no changes related to the enactment of that new statute are reflected in this rule-making package.

As explained in more detail below in the Informative Digest, the changes proposed by this Notice address the transfer and incorporation of DIR regulations pertaining to the State Mediation and Conciliation Service, with a unifying theme of both more clarity and transparency in the Board's processes, and efficiency to constituents resulting from having all relevant regulations contained in one location.

INFORMATIVE DIGEST

Proposed Section 32056 would provide necessary SMCS definitions of "service," "SMCS" or "Division of Mediation" as well as "Supervisor" within PERB's regulations.

Section 32100 establishes the application of PERB regulations. The only change proposed, other than the updating of authority and reference citations, is the addition of subsection (f) limiting the applicability of the PERB regulations to mediation, election and other services provided by mediators or conciliators except as expressly provided.

Proposed Section 32121 would identify the appropriate location for filing documents with the SMCS.

Section 32150 sets forth the requirements related to issuance of subpoenas. The only change proposed, other than the updating of authority and reference citations, is the modification of subsection (e) to expand the definition of "Board agent" to include a mediator or conciliator employed within SMCS and to limit the applicability of the regulation so as not to apply when a mediator or conciliator is performing services pursuant to Government Code 3601.

Section 32155 addresses the disqualification of Board agents and Board members. The only change proposed, other than the updating of authority and reference citations, is the modification of subsection (a) expanding the applicability of the regulation to encompass SMCS mediators and conciliators.

Section 32300 addresses exceptions to a Board agent's decision. The only change proposed is the updating of authority and reference citations.

Section 32305 addresses when proposed decisions become final. The only change proposed is the updating of authority and reference citations.

Section 32310 provides the procedure for responding to exceptions. The only change proposed is the updating of authority and reference citations.

Section 32315 provides for circumstances when the Board may order the taking of testimony by deposition. The only change proposed is the updating of authority and reference citations.

Section 32320 concerns decisions issued by the Board itself. The only change proposed is the updating of authority and reference citations.

Section 32350 provides the definition of "administrative decision." The only change proposed is the updating of authority and reference citations.

Section 32360 provides the requirements for an appeal. The only change proposed is the updating of authority and reference citations.

Section 32370 concerns requests for stay of activity. The only change proposed is the updating of authority and reference citations.

Section 32375 addresses the filing of a response to an administrative appeal. The only change proposed is the updating of authority and reference citations.

Section 32380 provides the limitations of filing an appeal. The only change proposed is the updating of authority and reference citations.

Section 32410 addresses requests for reconsideration. The only change proposed is the updating of authority and reference citations.

Existing Section 17300 (renumbered as Section 32998), consistent with Government Code section 3602 (and former Labor Code section 67), provides for reimbursement to SMCS for election services (including card check procedures), arbitration-related services, and training and facilitation services, as well as hearing officer services in resolving representation disputes under various public transit acts. The proposed amendments to this renumbered section would leave intact the reimbursement policy for all of these services except election work. Less than one-third of the revenue realized over the first two fiscal years this policy has been in effect has come from election work.

The proposed amendments would eliminate the "fee for service" for card check procedures and elections that resolve questions of representation. Such issues are integral to maintaining the integrity of the labor-management relationship. While this change would shift costs to PERB's budget, there would be an offsetting savings for affected public agencies and the employee organizations representing or seeking to represent public employees. This change would also eliminate any question of election costs having to be borne by individual employees who exercise their right, as a

group, to seek to decertify their exclusive representative or rescind an agency shop fee. Charging for elections (costs are normally split between the agency and the employee organization) also disadvantages employee groups that are newly established and may not have the funds to share the cost of an election. In general, this change would reinforce the neutral role of the SMCS and PERB in administering representation procedures.

It is important to note that neutral labor agencies in other states do not charge for election services, even in states where they charge for other services. Likewise, PERB itself does not charge for election services. Since SMCS is now a division of PERB, this change is also necessary to avoid a conflict with respect to how elections are conducted within PERB. This change will also facilitate the integration of SMCS into PERB and provide for cross-utilization of mediators and other PERB staff for similar work such as election services.

Existing Section 15800 (renumbered as Section 93000) provides definitions applicable under specified transit district acts and laws. The proposed changes would remove the definition of “Director” and “Service” from the regulation, move Section 15800 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to update authority and reference citations to reflect the transfer of SMCS from DIR to PERB (Chapter 46, Statutes 2012). The proposed changes would also eliminate reference to the DIR Director and replace the reference with “Supervisor” to reflect the transfer of responsibility from the DIR Director to PERB, eliminate the definition of “service” in this section, and update other statutory references in the text.

Existing Section 15805 (renumbered as Section 93005) concerns the process for filing a petition for certification. The proposed changes would update the location for filing a petition with SMCS to reflect the content of proposed regulation 32121, correct a typographical error in subsection (b), and remove reference to the service in subsection (c). The proposed changes are necessary to move Section 15805 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes, and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15810 (renumbered as Section 93010) identifies the form of a petition for certification. The proposed changes would eliminate the need for five copies of a petition in subsections (a) and in (n) confirm the service and obligations to the petitioner consistent with current PERB regulations. The proposed changes are necessary to move Section 15810 from Title 8, Division 1, Chapter 2.2 and renumber and amend the section

to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15815 (renumbered as Section 93015) identifies the percentage of valid authorizations required to determine the existence of a representation dispute. The proposed changes would clarify the requirement that authorizations be signed by the employee in subsection (a), and replaces the reference to the service with SMCS in subsections (b) and (c). The proposed changes are necessary to move Section 15815 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15820 (renumbered as Section 93020) provides for the use of consent election agreements. The proposed changes make clarifying and stylistic changes. The proposed changes are necessary to move Section 15820 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15825 (renumbered as Section 93025) provides for an investigation of a petition by service. In subsection (a), the proposed changes replace the references to the “service” with “SMCS” or “Supervisor,” eliminate the requirement that a copy of the petition be served with the notice of hearing, and clarify the timeframe by when a notice of hearing may be amended or withdrawn by the Supervisor. In subsection (b), the proposed changes update references to PERB regulations, replace the references to the “service” with “Supervisor,” eliminate the need for approval from the DIR Director, eliminate the need for a copy of the petition to be served with the notice of hearing, and eliminate reference to the finality of the Director’s decision. In subsection (c), the proposed changes update references to PERB regulations, replace the references to the “service” with “Supervisor,” and eliminate the requirement for the approval of the Director. The proposed changes also include the addition of subsection (d) identifying the ability to appeal any determination made by the Supervisor to the PERB Board in accordance with existing PERB regulations. The proposed changes are necessary to move Section 15825 from Title 8, Division 1, Chapter 8; Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s

processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15830 (renumbered as Section 93030) concerns the conduct of hearings concerning a petition for certification. In subsection (a), the proposed change replaces reference to the “Director” with “Board,” replaces reference to the “service” with “SMCS, the Supervisor, the hearing officer,” and replaces references to the prior transit district acts and laws with Section 93000. In subsection (b), the proposed change adds the words “or her” to convey gender neutrality. In subsection (c), the proposed changes update references to the newly proposed section numbers, correct a typographical error, clarify that written motions are to be filed with the hearing officer, eliminate the additional procedure for motions made prior to hearing, and clarify the process by which hearing officers rule on motions. The proposed changes are necessary to move Section 15830 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15835 (renumbered as Section 93035) provides the process for intervention. The proposed changes remove reference to the “service,” restructure sentences for gender neutrality, and correct a typographical error. The proposed changes are necessary to move Section 15835 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15840 (renumbered as Section 93040) identifies the rights and duties of parties at hearing. In subsection (c), the proposed changes include replacing the term “Rulings” with “Interlocutory rulings,” and removing the ability to appeal the rulings to the DIR Director. In subsection (d), the term “steno-graphic report” is replaced by “transcript,” and in subsection (f) a typographical error is fixed. The proposed changes are necessary to move Section 15840 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15845 (renumbered as Section 93045) identifies the application process for subpoenas. The proposed changes replace reference to the “service” with “Supervisor” or “the hearing officer,” make non-substantive stylistic changes, and clarify the role of the hearing officer. The proposed changes are neces-

sary to move Section 15845 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15850 (renumbered as Section 93050) concerns post-hearing briefing. The only changes proposed are the updating of authority and reference citations. The proposed changes are necessary, to move Section 15850 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15855 (renumbered as Section 93055) identifies the duties of a hearing officer following a hearing. The proposed changes restructure sentences for gender neutrality and style, replace “steno-graphic report” with “transcript,” replace “director” with “Supervisor,” eliminate review of the hearing by the Director, and update the appeal process pursuant to Section 93060. The proposed changes are necessary to move Section 15855 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15860 (renumbered as Section 93060) identifies the process for filing exceptions. The proposed changes replace the current procedure for filing exceptions and replace it incorporating reference to the existing Section 32300. The proposed changes are necessary to move Section 15860 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15865 (renumbered as Section 93065) concerns the determination of whether an election should be held. The proposed changes replace the procedure for issuing a determination and replace it with incorporation of reference to Sections 32300 through 32320, and 32400 and 32410. The proposed changes also restructure the remaining sentences to stylistically conform to the replacement of the procedure language; and replace “Director” with “Board.” The proposed changes are necessary to move Section 15865 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15870 (renumbered as Section 93070) identifies the procedures for conducting an election. In subsections (a), (b), (d), (e) and (f), the proposed changes replace reference to the “service” with “SMCS,” replace reference to “director” with “Supervisor,” make stylistic changes, and update cross-references. In (c), the proposed changes replace reference to the “service” with “Supervisor,” make stylistic changes, and eliminate the requirement that the Director prepare a report on challenged ballots, objections, or both. The proposed changes are necessary to move Section 15870 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15875 (renumbered as Section 93075) identifies the procedures for conducting a run-off election. The proposed changes replace reference to the “service” with “SMCS,” replace “director” with “Supervisor,” update reference citations, and make stylistic changes. The proposed changes are necessary to move Section 15875 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

Existing Section 15875.1 (renumbered as Section 93080) provides for the application of relevant federal law in resolving questions of representation. The proposed change replaces “Director” with “Board” and updates the authority and reference citations. The proposed changes are necessary to move Section 15875.1 from Title 8, Division 1, Chapter 8, Subchapter 2.2 and renumber and amend the section to reflect the transfer of SMCS from DIR to PERB, to provide more clarity and efficiency in the Board’s processes and to update/correct statutory references. (Chapter 46, Statutes 2012.)

**CONSISTENT AND COMPATIBLE WITH
EXISTING STATE REGULATIONS**

During the process of developing these regulations and amendments, PERB 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.

**ANTICIPATED BENEFITS OF THE
PROPOSED REGULATIONS**

These regulations and changes will improve the public sector labor environment and the collective bargaining process by clarifying PERB procedures, making the Board’s processes more transparent and accessible, and updating regulations consistent with current law. The changes will also reinforce the neutrality of PERB and SMCS procedures and result in some cost savings for local government agencies.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

Mandate on local agencies and school districts: Initial determination of the agency is that the proposed action would not impose any new mandate.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 et seq.: Initial determination of the agency is that the proposed action would not impose any new costs, and therefore requires no reimbursement.

Other non-discretionary cost or savings imposed upon local agencies: None.

Costs or savings to state agencies: Minimal impact on the PERB budget with savings to public agencies, employee organizations and employees.

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

Cost impact on representative private persons or businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: Initial determination of the agency is that the proposed action will have no impact.

Significant effect on housing costs: The agency’s initial determination is that there is no effect on housing costs.

The proposed regulations will not affect small business because they only affect public employers and public employees.

**RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT**

The adoption of the proposed amendments and sections will neither create nor eliminate jobs in the State of California nor result in the elimination of existing busi-

nesses or create or expand businesses in the State of California. The adoption of the proposed amendment will benefit public employers, employees, employees' representatives and the community at-large by further facilitating the resolution of public sector labor disputes by clarifying PERB procedures, making the Board's processes more transparent and accessible, and eliminating redundant procedures. In so doing, California residents' welfare will receive the benefit of stable collective bargaining and dispute resolution, which translates to continuous delivery of the essential services that these employers and employees provide to California communities.

CONSIDERATION OF ALTERNATIVES

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

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

PRELIMINARY ACTIVITIES

PERB staff invited comments on possible regulation changes by circulating discussion drafts of possible regulation changes in September 2012, including by posting the drafts on PERB's website. The Board also relied upon the Economic Impact Assessment identified in this Notice in proposing regulatory action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the address below. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies of these documents and the Final Statement of Reasons, when available, may be obtained by contacting Jonathan Levy or Katharine Nyman at the address or phone number listed

below, and are also available on the Board's web site (see address below).

ADOPTION OF PROPOSED REGULATIONS, AVAILABILITY OF CHANGED OR MODIFIED TEXT AND FINAL STATEMENT OF REASONS

Following the hearing, the Board 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 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 Board adopts the regulations. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of Jonathan Levy or Katharine Nyman at the address indicated below. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INTERNET ACCESS

The Board will maintain copies of this Notice, the Initial Statement of Reasons and the text of the proposed regulations on its web site, found at www.perb.ca.gov, throughout the rulemaking process. Written comments received during the written comment period will also be posted on the web site. The Final Statement of Reasons or, if applicable, notice of a decision not to proceed will be posted on the web site following the Board's action.

CONTACT PERSONS

Any questions or suggestions regarding the proposed action or the substance of the proposed regulations should be directed to:

Jonathan Levy, Regional Attorney
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811
(916) 327-8387
FAX: (916) 327-6377
E-mail: jlevy@perb.ca.gov

or

Katharine Nyman, Regional Attorney
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811
(916) 327-8386
FAX: (916) 327-6377
E-mail: knyman@perb.ca.gov

TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

The Public Employment Relations Board (PERB or Board) proposes to adopt, renumber, repeal, or amend the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

REGULATORY ACTION

The Board proposes to adopt sections 32091, 61215, 61255, and 61275; renumber section 32160; repeal sections 32613, 32810, 32811, 32812, and 32813; and amend sections 32132, 32135, 32140, 32147, 32305, 32320, 32450, 32455, 32615, 32620, 32661, 32798, 61090, 61210, 61220, 61240, 61250, 61260, and 61270. The repeal of sections 32810, 32811, 32812, and 32813 repeals Article 7 of Chapter 1, Subchapter 6 in its entirety. Also amended by this action would be the title of Article 3 of Chapter 5.

Proposed Section 32091 provides for the filing of documents through the use of electronic mail messages (e-mail). Section 32132 establishes procedures for the granting of extensions of time. Section 32135 defines the requirement for filing documents with PERB. Section 32140 sets forth the requirements related to service of documents on other interested parties. Section 32147 addresses expediting matters before the Board. Section 32160 provides for circumstances when the Board may order the taking of testimony by deposition. Section 32305 addresses when proposed decisions become final. Section 32320 concerns decisions issued by the Board itself. Section 32450 provides for the filing of requests for injunctive relief. Section 32455 addresses the investigation for a request for injunctive relief. Section 32613 currently provides for on-line filing of unfair practice charges. Section 32615 identifies the required contents of an unfair practice charge. Section 32620 concerns the processing of an unfair practice charge by a Board agent. Section 32661 addresses the filing of an unfair practice charge based on the claim that an arbitration decision is repugnant to the applicable collective bargaining statute. Section 32798 addresses procedures for the appointment of a factfinding panel chairperson under the Educational Employment Relations Act (EERA) and the Higher Education Employer-Employee Relations Act (HEERA).

Section 32810 provides for a list of arbitrators maintained by PERB. Section 32811 provides for requests by parties for the names of arbitrators. Section 32812 provides for the parties to notify PERB when they have selected an arbitrator. Section 32813 specifies that the costs of arbitration are borne by the parties.

Section 61090 provides for a public agency subject to the Meyers-Milias-Brown Act (MMBA) to grant recognition to an employee organization under specified circumstances. Section 31210 provides for the filing of a petition for certification under the MMBA. Proposed Section 61215 would provide for the filing of a petition for recognition under the MMBA. Section 61220 provides for the posting of a notice of the filing of a petition for certification. Section 61240 concerns the Board's determination as to the adequacy of proof of support for a petition for certification. Section 61250 provides for an employer response to a petition for certification. Proposed Section 61255 provides for an employer response to a petition for recognition. Section 61260 provides for amendments to a petition for certification. Section 61270 concerns the Board's investigation of disputes concerning a petition for certification. Proposed Section 61275 would provide for the Board's certification of an exclusive representative, based on proof of support, under specified circumstances.

PUBLIC HEARING

The Board will hold a public hearing at 10:00 a.m., on December 13, 2012, in Room 103 of its headquarters building, located at 1031 18th Street, Sacramento, California. Room 103 is wheelchair accessible. At the hearing, any person may orally present statements or arguments relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing. Any person wishing to testify at the hearing is requested to notify the Office of the General Counsel as early as possible by calling (916) 322-3198 to permit the orderly scheduling of witnesses and to permit arrangements for an interpreter to be made if necessary.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on December 11, 2012. Written comments will also be accepted at the public hearing. Submit written comments to:

Jonathan Levy, Regional Attorney
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811
(916) 327-8387
FAX: (916) 327-6377
E-mail: jlevy@perb.ca.gov

or

Katharine Nyman, Regional Attorney
 Public Employment Relations Board
 1031 18th Street
 Sacramento, CA 95811
 (916) 327-8386
 FAX: (916) 327-6377
 E-mail: knyman@perb.ca.gov

AUTHORITY AND REFERENCE

Pursuant to Government Code section 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Educational Employment Relations Act (EERA). Pursuant to Government Code sections 3509(a) and 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Meyers-Milias-Brown Act (MMBA). Government Code section 3513(h) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Ralph C. Dills Act (Dills Act). Government Code section 3563 authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Higher Education Employer-Employee Relations Act (HEERA). Pursuant to Public Utilities Code section 99561(f), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA). Pursuant to Government Code sections 3541.3(g) and 71639.1(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Governance and Employment Protection Act (Trial Court Act). Pursuant to Government Code sections 3541.3(g) and 71825(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act).

General reference for proposed section 32091: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3563, 3563.2, 71639.1 and 71825, Government Code, and Sections 99561 and 99561.2, Public Utilities Code. General reference for section 32132: Sections 3509, 3509.3, 3513(h), 3520.8, 3541.3(n), 3541.35, 3563(m), 3563.5, 71639.1, 71639.15, 71825, and 71825.05, Government Code; and Sections 99561(m) and 99561.4, Public Utilities Code. General reference for section

32135: Sections 3509, 3513(h), 3541.3(n), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for section 32140: Sections 3509, 3513(h), 3541.3(n), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for section 32147: Sections 3509, 3513(h), 3541.3(n), 3563(m), 71639.1 and 71825, Government Code, and Section 99561(m), Public Utilities Code. General reference for section 32160: Sections 3509, 3513(h), 3541.3(h), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for section 32305: Sections 3509, 3509.3, 3513(h), 3520.8, 3541.3(k), (n), 3541.35, 3563(j), (m), 3563.5, 71639.1, 71639.15, 71825, and 71825.05, Government Code; and Sections 99561(j), (m), and 99561.4, Public Utilities Code. General reference for section 32320: Sections 3509, 3513(h), 3514.5, 3541.3(k), (n), 3563(j), (m), 3563.2, 11425.60, 71639.1, and 71825, Government Code; and Sections 99561(j), (m) and 99561.2, Public Utilities Code. General reference for section 32450: Sections 3509, 3513(h), 3541.3(j), (n), 3563(i), 71639.1 and 71825, Government Code; and Section 99561(i), Public Utilities Code. General reference for section 32455: Sections 3509, 3513(h), 3541.3(j), 3563(i), 71639.1 and 71825, Government Code; and Section 99561(i), Public Utilities Code. General reference for section 32613: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3563, 3563.2, 71639.1 and 71825, Government Code, and Sections 99561 and 99561.2, Public Utilities Code. General reference for section 32615: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32620: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1 and 71825, Government Code; Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code; *Firefighters Union, Local 1186 v. City of Vallejo* (1974) 12 Cal.3d 608, and *Coachella Valley Mosquito and Vector Control District v. Public Employment Relations Board* (2005) 35 Cal.4th 1072. General reference for section 32661: Sections 3509, 3514.5, 3519, 3519.5, 3541.5, 3543.5, 3543.6, 3563.2, 3571, 3571.1, 3571.3, 3589, 71639.1 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8 and 99567, Public Utilities Code. General reference for section 32798: Sections 3548.1 and 3591, Government Code. General

reference for section 32810: Sections 3513(h), 3541.3(d), 3548.5, 3548.6 and 3589(d), Government Code, and Sections 99561(d) and 99567, Public Utilities Code. General reference for section 32811: 3513(h), 3541.3(d), 3548.5, 3548.6 and 3589(d), Government Code, and Section 99567, Public Utilities Code. General reference for section 32812: Sections 3513(h), 3541.3(d), 3548.5, 3548.6 and 3589(d), Government Code, and Section 99567, Public Utilities Code. General reference for section 32813: Sections 3513(h), 3541.3(d), 3548.5, 3548.6 and 3589(d), Government Code, and Section 99567, Public Utilities Code. General reference for section 61090: Reference: Sections 3507, 3507.1(a), (c), 3509 and 3541.3(l), Government Code. General reference for section 61210: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code. General reference for proposed section 61215: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code. General reference for section 61220: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code. General reference for section 61240: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code. General reference for section 61250: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code. General reference for section 61255: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code. General reference for section 61260: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code. General reference for section 61270: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(h) and (l), Government Code. General reference for proposed section 61275: Sections 3507, 3507.1(a), (c), 3509 and 3541.3(l), Government Code.

POLICY STATEMENT OVERVIEW

PERB is a quasi-judicial agency which oversees public sector collective bargaining in California. PERB presently administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB are: the Meyers-Milias-Brown Act (MMBA) of 1968, which established collective bargaining for California's city, county, and local special district employers and employees; the Educational Employment Relations Act (EERA) of 1976 establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act), establishing collective bargaining for state government

employees; the Higher Education Employer-Employee Relations Act (HEERA) of 1979 extending the same coverage to the California State University System, the University of California System and Hastings College of Law; the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) of 2003, which covers supervisory employees of the Los Angeles County Metropolitan Transportation Authority; and the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002, which together provide for collective bargaining rights for most trial court employees. PERB also now has jurisdiction over the In-Home Supportive Services Employer-Employee Relations Act of 2012 (IHSSA), which is applicable to certain in-home supportive services providers, but no changes related to the enactment of that new statute are reflected in this rule-making package.

As explained in more detail below in the Informative Digest, the changes proposed by this Notice address seven areas, but with a unifying theme of both more clarity and more transparency in the Board's processes. The first area of change concerns filing and service of documents. These changes primarily concern allowance for filing and service of documents by electronic mail, in most circumstances, while deleting the current on-line filing system that applies only to unfair practice charges.

Second, the repeal of the regulations providing for PERB's maintenance of a list of arbitrators is proposed due to the recent transfer to the State Mediation and Conciliation Service (SMCS) from the Department of Industrial Relations to PERB. SMCS also maintains a list of arbitrators, and parties utilize that list far more often than they do PERB's, and so it is logical to eliminate the redundancy by eliminating the list that is least used. PERB will continue, however, to maintain a Panel of Neutrals for purposes of providing lists of neutral factfinders and for the appointment of panel chairpersons. The third area of rulemaking proposed here concerns a change regarding the selection of factfinders under HEERA, where section 32798 would be modified to be consistent with current practice.

The fourth area of rulemaking concerns Board decisions. These changes, in part, clarify when decisions become final, pursuant to the mandate of Senate Bill 609 (Chapter 242, Statutes of 2011), and would prohibit extensions of time in representation cases subject to the 180-day limit for processing representation cases as set forth in Senate Bill 609. In addition, the amendments to Section 32320 would give the Board discretion to decide whether to designate decisions involving a review

of a charge dismissal as precedential. All other decisions would continue to be precedential.

Fifth, amendments to Section 32147 would clarify and make more transparent the Board's policy on when cases may be expedited. The sixth area concerns unfair practice charge processing. While several amendments are proposed, these changes are intended to be clarifying and not to make any major substantive change.

The seventh and final area concerns the process under the MMBA for petitioning for certification or recognition as an exclusive representative. The changes proposed would clarify but make no substantive change in MMBA representation procedures, pursuant to statutory changes enacted in 2001 (Chapter 790, Statutes of 2001; Assembly Bill 1281). The amendments (and addition of three new sections) are consistent with the procedures already in effect for cases arising under EERA and HEERA.

INFORMATIVE DIGEST

Proposed Section 32091 would provide for the filing of documents through the use of electronic mail messages (e-mail). Currently, the only electronic filing allowed under PERB regulations is the on-line filing of unfair practice charges, through a program maintained on the PERB web site that requires persons using it to register and to have an e-mail address. The intent is to broaden the use of electronic filing in order to facilitate more timely processing of cases, and to eliminate the use of a proprietary system that itself requires the investment of time and resources.

Section 32132 establishes procedures for the granting of extensions of time. The only change proposed, other than the updating of reference citations, is a cross-reference to changes proposed to Section 32305, pursuant to the mandate of Senate Bill 609 (Chapter 242, Statutes of 2011).

Section 32135 defines the requirement for filing documents with PERB. The changes proposed involve clarification as to when proof of service must accompany documents filed with PERB, and revisions related to the adoption of proposed Section 32091 (e-mail filing).

Section 32140 sets forth the requirements related to service of documents on other interested parties. Most of the changes proposed to this section are intended to provide clarity with respect to the use of electronic mail for filing and service of documents. In addition, the prohibition against a party to a case signing his or her own proof of service document would be deleted.

Section 32147 addresses expediting matters before the Board. The current language of this section refers to "policy established by the Board itself," but does not otherwise clarify or identify when matters will be expe-

ditied. Over the years, a body of practice has developed around this question, and the intent here is to make the policy more transparent by setting it forth in the text of the regulation itself. The policy described by the proposed changes is also consistent with the mandate of Senate Bill 609 (Chapter 242, Statutes of 2011) regarding timely processing of representation disputes.

Section 32160 provides for circumstances when the Board may order the taking of testimony by deposition. The only change proposed here is to renumber the section so that it appears in Subchapter 3 (Hearings), rather than Subchapter 2 (Definitions and General Provisions) of Chapter 1.

Section 32305 addresses when proposed decisions become final. This section would be retitled and amended consistent with the mandate of Senate Bill 609 (Chapter 242, Statutes of 2011), which requires that certain proposed decisions of an administrative law judge become final if the Board itself does not issue a decision in the case within 180 days from the date exceptions were filed with the Board.

Section 32320 concerns decisions issued by the Board itself. The proposed amendments to Section 32320 would give the Board the discretion to decide whether to designate decisions involving a review of a charge dismissal as precedential. All other decisions would continue to be precedential.

Section 32450 provides for the filing of requests for injunctive relief. Section 32455 addresses the investigation for a request for injunctive relief. The only changes proposed to these sections are for purposes of clarifying the language, and to incorporate reference to the use of electronic mail for filing and service.

Section 32613 currently provides for on-line filing of unfair practice charges. This section would be repealed, as maintenance of the current, limited on-line filing system would be unnecessary with the adoption of proposed changes allowing for filing via use of electronic mail.

Section 32615 identifies the required contents of an unfair practice charge. The only changes involve the removal of two items of information currently required; namely, a statement whether a collective bargaining agreement is in effect, and the date and duration of such agreement, and whether a grievance procedure or public notice complaint procedure has been invoked. In many cases, neither item of information is relevant or necessary, and the requirement of answers in order to have a valid charge filed causes confusion.

Section 32620 concerns the processing of an unfair practice charge by a Board agent. Several clarifying changes are proposed here, but no substantive change in the meaning or administration of this section is intended.

Section 32661 addresses the filing of an unfair practice charge based on the claim that an arbitration decision is repugnant to the applicable collective bargaining statute. A clarifying correction to the cross-reference to other regulation sections is proposed. Again, this would have no substantive impact.

Section 32798 addresses procedures for the appointment of a factfinding panel chairperson under the Educational Employment Relations Act (EERA) and the Higher Education Employer–Employee Relations Act (HEERA). As currently written, this section would arguably prohibit parties under HEERA from agreeing to select and compensate a factfinding panel chairperson who would not be available for appointment by PERB. Current practice is to allow the parties to make such a selection by mutual agreement, and the proposed revisions would codify that practice.

Section 32810 provides for a list of arbitrators maintained by PERB. Section 32811 provides for requests by parties for the names of arbitrators. Section 32812 provides for the parties to notify PERB when they have selected an arbitrator. Section 32813 specifies that the costs of arbitration are borne by the parties. The repeal of these sections is proposed because an equivalent process is available through the State Mediation and Conciliation Service (SMCS), which is now a division of PERB. While PERB receives only one or two requests for arbitrator lists each year, SMCS processes hundreds of such requests.

Section 61090 provides for a public agency subject to the Meyers–Milius–Brown Act (MMBA) to grant recognition to an employee organization under specified circumstances. The amendments to this section would clarify and make more certain the provisions, consistent with the wording of similar sections applicable under other statutes (see, e.g., Section 33480, applicable to cases arising under EERA).

Section 61210 provides for the filing of a petition for certification under the MMBA. The proposed amendments would clarify that this type of petition is one that, if successful, would lead to an election, and would be distinguished from a petition from recognition based on proof of support.

Proposed Section 61215 would provide for the filing of a petition for recognition under the MMBA. Consistent with the changes proposed to Section 61210, this new section would provide for a separate type of petition where an employee organization seeking recognition or certification as an exclusive representative does so based on the submission of proof of majority support.

Section 61220 provides for the posting of a notice of the filing of a petition for certification. Changes to the title and text would clarify that the posting requirements are applicable to both a petition for certification and a petition for recognition.

Section 61240 concerns the Board’s determination as to the adequacy of proof of support for a petition for certification. The proposed amendments are for the purpose of harmonizing the provisions of this section with the other changes proposed to related sections, including the adoption of proposed Section 61215.

Section 61250 provides for an employer response to a petition for certification. Minor changes to the text are proposed that are consistent with the establishment of separate processes for petitions for certification and petitions for recognition.

Proposed Section 61255 would provide for an employer response to a petition for recognition. This new section is required by the adoption of proposed Section 61215.

Section 61260 provides for amendments to a petition for certification. Changes to the title and text would clarify that the both a petition for certification and a petition for recognition may be amended, and that the requirements for an amendment are applicable in both types of case.

Section 61270 concerns the Board’s investigation of disputes concerning a petition for certification. The proposed amendment would make explicit the application of the section to both petitions for certification and petitions for recognition.

Proposed Section 61275 would provide for the Board’s certification of an exclusive representative, based on proof of support, under specified circumstances. The adoption of this new section would clarify and make more certain the process whereby an employee organization may obtain exclusive representative status without an election under certain circumstances, consistent with the wording of similar sections applicable under other statutes (see, e.g., Section 33485, applicable to cases arising under EERA). Adoption of this new section is more consistent with statutory changes enacted in 2001 (Chapter 790, Statutes of 2001; Assembly Bill 1281) than existing regulations.

CONSISTENT AND COMPATIBLE WITH EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, PERB 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.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

These regulations and changes will improve the public sector labor environment and the collective bargaining process by clarifying PERB procedures, making the

Board's processes more transparent and accessible, and eliminating redundant procedures. As an additional benefit, these changes will help PERB's constituents to avoid unnecessary and costly unfair practices and related litigation. When public sector labor disputes are resolved in less costly ways, the community at-large benefits from those cost-savings.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: Initial determination of the agency is that the proposed action would not impose any new mandate.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 et seq.: Initial determination of the agency is that the proposed action would not impose any new costs which must be reimbursed.

Other non-discretionary cost or savings imposed upon local agencies: Initial determination of the agency is that the proposed action to repeal Sections 32810, 32811, 32812 and 32813 create a negligible cost, if any. Historically, PERB receives approximately one to two requests for an arbitrator list per year. Most local agencies and school districts already use other services where a fee is charged to obtain a list.

Costs or savings to state agencies: None. PERB has never received a request for an arbitrator list from another state agency.

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

Cost impact on representative private persons or businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: Initial determination of the agency is that the proposed action will have no impact.

Significant effect on housing costs: The agency's initial determination is that there is no effect on housing costs.

The proposed regulations will not affect small business because they only affect public employers and public employees.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments 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 adoption of the proposed amendment will benefit public employers, employees, employees' representatives and the community at-large by further facilitating the resolution of public sector labor disputes by clarifying PERB procedures, making the Board's processes more transparent and accessible, and eliminating redundant procedures. In so doing, California residents' welfare will receive the benefit of stable collective bargaining and dispute resolution, which translates to continuous delivery of the essential services that these employers and employees provide to California communities.

CONSIDERATION OF ALTERNATIVES

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

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

PRELIMINARY ACTIVITIES

PERB staff invited comments on possible regulation changes at a PERB Advisory Committee meeting held on June 28, 2012, and circulated discussion drafts of possible regulation changes both prior to and following that meeting. The Board also relied upon the Economic Impact Assessment identified in this Notice in proposing regulatory action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the address below. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies of these documents and the Final Statement of Reasons, when available, may be obtained by contacting Jonathan Levy or Katharine Nyman at the address or phone number listed below, and are also available on the Board's web site (see address below).

ADOPTION OF PROPOSED REGULATIONS,
AVAILABILITY OF CHANGED OR MODIFIED
TEXT AND FINAL STATEMENT OF REASONS

Following the hearing, the Board 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 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 Board adopts the regulations. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of Jonathan Levy or Katharine Nyman at the address indicated below. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INTERNET ACCESS

The Board will maintain copies of this Notice, the Initial Statement of Reasons and the text of the proposed regulations on its web site, found at www.perb.ca.gov, throughout the rulemaking process. Written comments received during the written comment period will also be posted on the web site. The Final Statement of Reasons or, if applicable, notice of a decision not to proceed will be posted on the web site following the Board's action.

CONTACT PERSONS

Any questions or suggestions regarding the proposed action or the substance of the proposed regulations should be directed to:

Jonathan Levy, Regional Attorney
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811
(916) 327-8387

or

Katharine Nyman, Regional Attorney
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811
(916) 327-8386

**TITLE 14. FISH AND GAME
COMMISSION**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 2070 and 2075.5 of the Fish

and Game Code and to implement, interpret or make specific sections 1755, 2055, 2062, 2067, 2070, 2074.6, 2075.5, 2077, 2080, 2081 and 2835, of the Fish and Game Code, proposes to amend Section 670.5, Title 14, California Code of Regulations, relating to Animals of California Declared to Be Endangered or Threatened.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The Department of Fish and Game recommends that the Commission amend subsection (a)(3) of Section 670.5 of Title 14, CCR, to add the southern mountain yellow-legged frog (*Rana muscosa*) to the list of endangered animals, and amend subsection (b)(3) of Section 670.5 of Title 14, CCR, to add the Sierra Nevada mountain yellow-legged frog (*Rana sierrae*) to the list of threatened animals.

In making the recommendation to list the mountain yellow-legged frog (*Rana muscosa* and *Rana sierrae*) pursuant to CESA, the Department identified the following primary threats: 1) introduction and persistence of non-native trout populations to habitats occupied by mountain yellow-legged frog; 2) introduction and persistence of the amphibian disease chytridiomycosis; and 3) catastrophic natural events impacting relictual southern California populations of southern mountain yellow-legged frog (*Rana muscosa*). More detail about the current status of the mountain yellow-legged frog (*Rana muscosa* and *Rana sierrae*) can be found in the "Report to the California Fish and Game Commission, A Status Review of the Mountain Yellow-Legged Frog (*Rana muscosa* and *Rana sierrae*)" (Department of Fish and Game, November 28, 2011).

The proposed regulation will benefit the environment by protecting the southern mountain yellow-legged frog (*Rana muscosa*) as an endangered species and the Sierra Nevada yellow-legged frog (*Rana sierrae*) as a threatened species.

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

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. No other state entity has the authority to list threatened and endangered species.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hilton San Diego-Mission Valley, 901 Camino del Rio South, San Diego, California, on Wednesday, December 12, 2012 at 8:30 a.m., or as soon thereafter as the matter may be heard. Written comments may be submitted at the address giv-

en below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on December 7, 2012.** All comments must be received no later than December 12, 2012, at the hearing in San Diego, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sheri Tiemann at the preceding address or phone number. **Stafford Lehr, Fisheries Branch, Department of Fish and Game, phone (916) 327-8840, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

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

Impact of Regulatory Action/Results of the Economic Impact Analysis

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

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

While the California Endangered Species Act (CESA) does not specifically prohibit the consideration of economic impact in determining

if listing is warranted, the Attorney General's Office has consistently advised the Commission that it should not consider economic impact in making a finding on listing. This is founded in the concept that CESA was drafted in the image of the federal Endangered Species Act. The federal act specifically prohibits consideration of economic impact during the listing process.

Listing a species pursuant to CESA is a multi-stage process. During one stage, the Commission must make a finding on whether or not the petitioned action is warranted. By statute, once the Commission has made a finding that the petitioned action is warranted, it must initiate a rulemaking process to make a corresponding regulatory change. To accomplish this next stage, the Commission is required to follow the Administrative Procedure Act (APA).

The provisions of the APA, specifically sections 11346.3 and 11346.5 of the Government Code, require an analysis of the economic impact of the proposed regulatory action. While Section 11346.3 requires an analysis of economic impact on businesses and private persons, it also contains a subdivision (a) which provides that agencies shall satisfy economic assessment requirements only to the extent that the requirements do not conflict with other state laws.

Since the finding portion of CESA is silent to consideration of economic impact, it is possible that subdivision (a) of Section 11346.3 does not exclude the requirement for economic impact analysis. While the Commission does not believe this is the case, an abbreviated analysis of the likely economic impact of the proposed regulation change on businesses and private individuals is provided. The intent of this analysis is to provide disclosure, the basic premise of the APA process. The Commission believes that this analysis fully meets the intent and language of both statutory programs.

Designation of the southern mountain yellow-legged frog (*Rana muscosa*) and the Sierra Nevada mountain yellow-legged frog (*Rana sierrae*) as endangered and threatened, respectively, will subject it to the provisions of CESA. CESA prohibits take and possession except as may be permitted by the Department.

Listed status is not expected to result in any significant adverse economic effect on small business or significant cost to private or public entities undertaking activities subject to the California Environmental Quality Act (CEQA). Prior to making any discretionary approval of a

project subject to CEQA, public agencies are to consider de facto endangered species to be subject to the same requirements under CEQA as though they were already listed by the Commission in Sections 670.2 or 670.5 of Title 14, CCR (CEQA Guidelines, Section 15380). All populations of mountain yellow-legged frog have qualified for protection under CEQA Guidelines Section 15380 since its designation by the Department in 1994 as a species of special concern.

Required mitigation as a result of public agency compliance with CEQA, whether or not the species is listed by the Commission, may increase the cost of a project. Such costs may include, but are not limited to, purchasing off-site habitat, development and implementation of management plans, establishing new populations, installation of protective devices such as fencing, protection of additional habitat, and long-term monitoring of mitigation sites. Public agencies may also require additional actions should the mitigation measures fail, resulting in added expenditures by the project proponent. If the mitigation measures required by the public agency do not minimize and fully mitigate project effects on a listed species as required for the Department to issue an incidental take permit pursuant to CESA, listing could increase business costs by requiring measures beyond those required by CEQA.

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

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

The Commission does not anticipate benefits to the health and welfare of California residents or to worker safety.

The Commission anticipates benefits to the environment by the protection of the mountain yellow-legged frog (*Rana muscosa* and *Rana sierrae*).

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

Designation of threatened or endangered status, per se, would not necessarily result in any significant cost to private persons or entities

undertaking activities subject to CEQA. CEQA presently requires private applicants undertaking projects subject to CEQA to consider de facto endangered (or threatened) and rare species to be subject to the same protections under CEQA as though they are already listed by the Commission in Sections 670.2 or 670.5 of Title 14, CCR (CEQA Guidelines Section 15380).

Any added costs should be more than offset by savings that would be realized through the information consultation process available to private applicants under CESA. The process would allow conflicts to be resolved at an early stage in project planning and development, thereby avoiding conflicts later in the CEQA review process, which would be more costly and difficult to resolve.

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

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

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

TITLE 16. BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

NOTICE IS HEREBY GIVEN that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is proposing to take the action described in

the Informative Digest. The Board does not intend to hold a hearing in this matter. If an interested party wishes that a hearing be held, he or she must make the request in writing to the Board no later than 5 p.m. on November 26, 2012. 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 the Notice as the 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.

Written comments, including those sent by mail, facsimile, or email to the address listed above must be received by the Board at its office no later than 5:00 p.m. on December 11, 2012, or must be received by the Board immediately following the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposal if such modification is 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 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 144, 475, 6716, 7818, and 8720.5 of the Business and Professions Code, and to implement, interpret, or make specific Sections commencing with Section 475 of the Business and Professions Code or Sections 6751, 6762.5, 6793.3, 7841, 7841.1, 7884, 8747.5, or 8803 of said code, the Board is considering changes to Division 5 and Division 29 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

Business and Professions Code (B&P) sections (§§) 6716, 7818, and 8720.5 authorize the Board to adopt, amend, or repeal, such rules regulations as may be reasonably necessary to enable it to carry into effect the provisions of law relating to the practice of engineering, land surveying, and geology. The Board is proposing the following:

The main purpose of the proposed language is to establish requirements that an applicant must furnish a

full set of fingerprints to the Department of Justice (“DOJ”) as a condition of processing an application with the Board. Generally, this proposal would:

- Clarify Board authority to obtain and review criminal offender record information.
- Specify the conditions and the purpose for which a full set of fingerprints would be required.
- Establish that the applicant would be responsible for paying the costs associated with furnishing fingerprints and conducting criminal offender record searches.
- Mandate that failure to comply with these requirements or submission of a full set of fingerprints to DOJ renders any application for approval incomplete and shall not be processed by the Board.
- Waive requirement if fingerprints have already been submitted to DOJ.
- Maintain results of any criminal offender record shall not be released.
- Specify operative dates for all applicants to submit fingerprints.

Proposed changes, by section, are more specifically identified as follows:

Engineers & Land Surveyors

Add Section 420.1 Applicant Fingerprint Submittal and Review

The sections that follow relate to fingerprinting and disclosure requirements for the processing of an application. The Board is specifying its authority to obtain and review criminal offender record information. This information shall be obtained as a result of fingerprinting and is necessary to determine whether the applicant is subject to denial of licensure pursuant to the Board’s authority (commencing with Section 475 of B&P). Applicants need to be made aware that fingerprinting will be required as a condition of licensure, and this regulation would authorize the Board to require fingerprinting.

- CCR § 420.1(a) specifies Board authority to obtain criminal record information for the purposes of determining licensure.
- CCR § 420.1(b) creates fingerprint requirements for the applicant, in specific, submission of fingerprints to DOJ on behalf of the Board.
- CCR § 420.1(c) establishes that the cost of fingerprinting and conducting the criminal history record check must be paid by the applicant. This regulation is necessary to authorize assessment of costs to the applicant.
- CCR § 420.1(d) identifies that the applicant shall certify his or her fingerprints have been provided to DOJ for compliance.

- CCR § 420.1(e) details compliance requirements for application approval.
- CCR § 420.1(f) waives fingerprint requirement if fingerprints have already been submitted with a prior application.
- CCR § 420.1(g) authorizes confidentiality of criminal offender records unless requested in accordance with state and federal requirements.
- CCR § 420.1(h) identifies additional sections of B&P Code pertaining to application submittal.
- CCR § 420.1(i) defines terminology and provides description of terms.
- CCR § 420.1(j) identifies operative dates for any and all applicants submitting fingerprints.

Geologists and Geophysicists

Add Section 3021.1 Applicant Fingerprint Submittal and Review

The sections that follow relate to fingerprinting and disclosure requirements for the processing of an application. The Board is specifying its authority to obtain and review criminal offender record information. This information shall be obtained as a result of fingerprinting and is necessary to determine whether the applicant is subject to denial of licensure pursuant to the Board's authority (commencing with Section 475 of B&P). Applicants need to be made aware that fingerprinting will be required as a condition of licensure, and this regulation would authorize the Board to require fingerprinting.

- CCR § 3021.1(a) specifies Board authority to obtain criminal record information for the purposes of determining licensure.
- CCR § 3021.1(b) creates fingerprint requirements for the applicant, in specific, submission of fingerprints to DOJ on behalf of the Board.
- CCR § 3021.1(c) establishes that the cost of fingerprinting and conducting the criminal history record check must be paid by the applicant. This regulation is necessary to authorize assessment of costs to the applicant.
- CCR § 3021.1(d) identifies that the applicant shall certify his or her fingerprints have been provided to DOJ for compliance.
- CCR § 3021.1(e) details compliance requirements for application approval.
- CCR § 3021.1(f) waives fingerprint requirement if fingerprints have already been submitted with a prior application.
- CCR § 3021.1(g) authorizes confidentiality of criminal offender records unless requested in accordance with state and federal requirements.

- CCR § 3021.1(h) identifies additional sections of B&P Code pertaining to application submittal.
- CCR § 3021.1(i) defines terminology and provides description of terms.
- CCR § 3021.1(j) identifies operative dates for any and all applicants submitting fingerprints.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The purpose and benefit is to make it easier for the Board to license appropriate candidates while denying those applicants who may jeopardize public safety. The additions will maintain the Board's mission to safeguard the life, health, property, and welfare of the public.

C. Consistency and Compatibility with Existing State Regulations

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

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The Board sought and were approved a Budget Change Proposal (BCP 1110-01L) to manage the additional workload from processing fingerprint records and the applicable disciplinary actions that may result from fingerprint reports. The BCP provides 1.0 Office Technician and redirected appropriated savings to accomplish fingerprint processing.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: The proposed regulatory action does not impose a mandate on local agencies or school districts.

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

Business Impact:

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

AND

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

The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. There are approximately 750 vendors statewide, including small businesses that provide fingerprinting services. There will be no initial or ongoing cost impact upon vendors because they are already equipped to provide the fingerprinting service. There are approximately 18,000 applications for licensure processed annually by the Board. A recent change in the application process for Engineer-In-Training (EIT) and Land-Surveyor-In-Training (LSIT) requires an examinee to take an exam for licensure and once passed the examinee can submit an application for licensure. Based on passing rates for those exams, about 50%, only those individuals will submit an application for certification. This will decrease the amount of applications processed annually. EIT's and LSIT's make up 45% (8,100) of Board applications. The Board projects 4,000 applications annually from this new process decreasing total applications to 14,000 annually.

X The Board has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals. Submissions may include the following considerations:

- Continue to accept applications without requesting fingerprints for a criminal history background check. This goes against the Board's mission to safeguard the life, health, property, and welfare of the public.
- Require fingerprints without regulatory authority. The Board cannot operate without regulatory authority and SB 543 requires the Board to verify applicants' fingerprints for criminal history prior to approval.
- The use of performance standards rather than prescriptive standards. This is the standard practice currently administered by the Board. Over time, the Board and the Department have witnessed an increase in the number of enforcement cases as a result of prior criminal history within the licensing population. In order to mitigate further growth fingerprinting provides early detection and immediate action, if required. This will safeguard California consumers.

The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence which support this determination.

Cost Impact on Representative Private Person or Business:

X The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to Board are:

Applicants, who have not previously been fingerprinted, will be required to be fingerprinted at the time of application review. The one-time cost for a person to get fingerprinted is approximately \$64.00. Of this fee, \$32.00 goes to the DOJ for conducting the background check and providing the criminal record report to the Board, \$17.00 goes to the FBI, and the remainder is for the vendor for fingerprinting the individual. Vendors' fees range from \$5.00 to \$45.00 with the average fee being \$15.00.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The regulation will not have a significant adverse economic impact on businesses. There are approximately 750 vendors statewide, including small businesses that provide fingerprinting services. There should not be any cost impact on vendors because they are already equipped to provide the service. This regulation will generate revenue for the vendors of Live Scan.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have

X a significant

impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

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

The purpose and benefit is to make it easier for the Board to license appropriate candidates while denying those applicants who may jeopardize public safety. The additional regulations will maintain the Board's mission to safeguard the life, health, property, and welfare of the public.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833.

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: Jeff Alameida
Address: 2535 Capitol Oaks Drive,
S-300
Sacramento, CA 95833
Telephone Number: (916) 263-2269
Fax No.: (916) 263-2246
E-Mail Address: jeff.alameida@dca.ca.gov

The backup contact person is:

Name: Larry Kereszt
Address: 2535 Capitol Oaks Drive,
S-300
Sacramento, CA 95833
Telephone Number: (916) 263-2240
Fax No.: (916) 263-2246
E-Mail Address: larry.kereszt@dca.ca.gov

Website Access: <http://www.bpelsg.ca.gov/> Materials regarding this proposal can be found at <http://www.bpelsg.ca.gov/licensees/laws.shtm>.

TITLE 22. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 22, California Code of Regulations
SUBJECT: Administrative Penalties — General Acute Care Hospitals, Acute Psychiatric Hospitals, and Special Hospitals, DPH-09-012

PUBLIC PROCEEDINGS

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

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, should a public hearing be scheduled, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of written public hearing materials into Braille, large print, audiocassette, or computer disk. Note: The range of assistive services available may be

limited if requests are received less than ten business days prior to a public hearing.

To request such services or copies of materials in an alternate format, please write to Coleen Keelan, Office of Regulations, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, or call (916) 440-7439, or use the California Relay Service by dialing 711.

WRITTEN COMMENT PERIOD

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on December 10, 2012, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier "DPH-09-012" in the subject line to facilitate timely identification and review of the comment; or
2. By fax transmission: (916) 440-5747; or
3. By mail to: Office of Regulations, California Department of Public Health, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377; or hand-delivered to: 1616 Capitol Avenue, Sacramento, CA 95814. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate.

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

AUTHORITY AND REFERENCE CITATIONS

The Department is proposing to adopt the regulations sections identified under the authority provided in sections 1280.1, 1280.3, 131050, 131051, 131052, and 131200, Health and Safety Code. This proposal implements, interprets, or makes specific section 1280.3, Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In 2006, in response to concerns that the administrative penalties for hospitals were too low to effectively compel compliance, the Legislature enacted Senate Bill (SB) 1312 (Alquist, Chapter 895, Statutes of 2006) that provided CDPH with a greatly enhanced civil money penalty enforcement system for all acute care settings. The bill allowed CDPH to issue monetary penalties to hospitals for violations of state law requirements, which the Legislature believed would provide incentives for hospitals to attain and maintain regulatory compliance. The original penalties were for violations that were considered to meet the standard for immediate jeopardy as defined in H&SC Section 1280.1. An administrative penalty could have been issued to a hospital for deficiencies constituting immediate jeopardy to the health or safety of a patient in an amount not to exceed \$25,000 per violation. Immediate jeopardy is defined as a situation in which the licensee's noncompliance with one or more requirements of licensure has caused, or is likely to cause, serious injury or death to the patient. Additionally, SB 1312 allowed CDPH, upon the adoption of regulations, to administer an administrative penalty for violations that do not constitute IJ in an amount up to \$17,500 per violation. The bill required CDPH to include the following when developing regulations to establish criteria to assess administrative penalties against hospitals:

- Patient's physical and mental condition.
- Probability and severity of the risk that the violation presents to the patient.
- Actual financial harm to patients, if any.
- Nature, scope, and severity of the violation.
- Facility's history of compliance with related state and federal statutes and regulations.
- Factors beyond the facility's control that restrict the facility's ability to comply with Chapter 2 or the rules and regulations promulgated thereunder.
- Demonstrated willfulness of the violation.
- Extent to which the facility detected the violation and took steps to immediately correct the violation and prevent the violation from occurring.

In 2008, SB 541 (Alquist, Chapter 605, Statutes of 2008) raised the immediate jeopardy penalty for general acute care hospitals (GACHs), acute psychiatric hospitals (APHs), and specialty hospitals (SHs) from a maximum of \$25,000 per violation to a maximum of \$50,000 for the first penalty, a maximum of \$75,000 for the second and up to \$100,000 for the third and subsequent penalty. Hospitals that receive a penalty and then are in substantial compliance with all licensing laws

and do not receive any additional penalties for a period of three years will reset fines back to the lowest amount. These new penalties took effect for violations occurring after January 1, 2009. In addition, CDPH must consider all factors and the special circumstances of small and rural hospitals in order to protect access to care in those hospitals.

Following the promulgation and enactment of regulations, SB 541 authorized the increase of administrative penalty amounts levied against GACHs, APHs, and SHs for IJ violations up to \$75,000 for a first IJ violation, up to \$100,000 for a second IJ violation, and up to \$125,000 for the third and every subsequent violation. The provision in Section 1280.3 of the Health and Safety Code also stipulates that any violation that occurs after three years of a previous violation shall be considered the first violation, given that the facility has demonstrated substantial compliance with all state and federal licensing laws and regulations. Accordingly, CDPH must consider all factors and the special circumstances of small and rural hospitals in order to protect access to care in those hospitals.

SB 541 also increased administrative penalties levied against GACHs, APHs, and SHs for non-IJ violations from \$17,500 to up to \$25,000 per violation provided regulations were adopted.

Policy Statement Overview

Problem Statement: The Department cannot assess the increased maximum administrative penalties against a licensee of a general acute care hospital, an acute psychiatric hospital, or a special hospital until regulations are adopted. Health and Safety Code Section 1280.3 authorizes the director of the Department of Public Health (Department) to assess an administrative penalty against a licensee of a general acute care hospital, an acute psychiatric hospital, or a special hospital for a violation of any requirement of licensure. H&SC § 1280.3(b) also requires the Department to adopt regulations establishing criteria for assessing an administrative penalty against a hospital and specifically provides eight criteria that must be included in the regulations. The Department is currently authorized to assess administrative penalties for violations that constitute immediate jeopardy under H&SC § 1280.1. When these regulations become effective, the maximum penalties for immediate jeopardy violations will increase and the Department will also be authorized to assess administrative penalties for violations that do not constitute immediate jeopardy.

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

- Implement H&SC Section 1280.3.

- Adopt criteria for assessment of administrative penalties against hospitals for deficiencies that constitute immediate jeopardy, as well as less serious violations that do not constitute immediate jeopardy.
- Establish a procedure for penalty calculation that accounts for all criteria required by law.
- Enforce compliance with the full scope of hospital licensure requirements by assessing civil money penalties for failure to comply with the law.
- Protect the health and safety of hospital patients.

Benefits: Anticipated benefits including non-monetary benefits as a result of this proposed regulatory action will be:

- Improving the health, safety and welfare of California residents while within acute care hospitals by applying stiffer penalties and applying penalties to the less serious violations that affect a patient’s health, welfare and/or safety.
- More effectively enforce compliance with licensure requirements by increasing the maximum penalties against hospitals for the most serious deficiencies that constitute immediate jeopardy.
- Deter less serious violations that do not constitute immediate jeopardy.
- Promote statewide consistency in assessment of administrative penalties by applying specific criteria to calculate the amount of the penalty.

The Department is prohibited from assessing administrative penalties for minor violations.

Summary of Proposal

The purpose of this regulation is to implement Health & Safety Code Section 1280.3 by introducing the proposed regulation. The standards in these proposed regulations are limited to general acute care hospitals, acute psychiatric hospitals, and specialty hospitals. Existing Department regulations do not address the provisions specified in Health & Safety Code Section 1280.3.

Evaluation as to whether the proposed regulations are inconsistent or incompatible with existing state regulations

The Department evaluated this proposal as to whether the regulations are inconsistent or incompatible with existing state regulations. This evaluation included a review of the Department’s existing general regulations and those regulations specific to general acute care hospitals, acute psychiatric hospitals and specialty hospitals. An internet search of other state agency regulations was also performed and it was determined that there were other state regulations that addressed similar sub-

ject matter within Health and Safety Code Sections 1278.5, 1280.4, 1280.15, 1317.4 and 1317.6, however this regulation has been specified to identify the guidelines followed within the regulation are in accordance with Health and Safety Code Section 1280.3 in order to avoid any potential conflict in law.

Therefore, the Department has determined that this proposal, if adopted, would not be inconsistent or incompatible with existing state regulations.

This regulation package proposes the adoption of:

Section 70951, to describe the applicability of Article 10 as it pertains to the assessment of hospital administrative penalties. Subdivision (a) states that Article 10 of Chapter 1 of Division 5 of Title 22 CCR applies only to the assessment of administrative penalties issued to general acute care hospitals pursuant to H&SC Section 1280.3. Additional provisions are not necessary for special hospitals because these hospitals are regulated under the general acute care standards in Article 10.

Section 70952, to define terms used in H&SC Section 1280.3 and Article 10. These definitions are necessary to clarify and to ensure consistency in the terminology used in these regulations.

Section 70953, to state that administrative penalties issued pursuant to H&SC Section 1280.3 will be assessed following the procedures set forth in Article 10. It also states that the penalty calculated under Article 10 for any single deficiency will not exceed the penalties specified in statute. This section is necessary to establish procedures for penalty calculation and to make clear that penalties are subject to any applicable statutory maximum.

Section 70954, to specify the criteria for determining an initial penalty. The matrix presented in this section is the tool the penalty assessors will use to arrive at the appropriate initial penalty for a deficiency.

Section 70955, to specify the factors to be considered when adjusting the initial penalty to determine the base penalty. This provision is necessary to specify the factors for adjusting an initial penalty and to provide a consistent basis for raising or lowering the initial penalty.

Section 70956, to define the term “base penalty” as the cumulative adjusted initial penalty as determined under Sections 70954 and 70955. This section is necessary to define the term “base penalty” for further penalty adjustments in Section 70957, and to make clear that the base penalty may exceed the statutory maximum for the purpose of penalty calculation, so long as the final penalty does not exceed the statutory maximum.

Section 70957, to describe two of the eight criteria used to adjust the base penalty in the last step of the penalty calculation leading to the final penalty.

Each adjustment factor is discussed below in related Subdivisions (a) and (b).

Subdivision (a): Immediate correction of the violation. This regulation is necessary to address the statutory mandate of H&SC Section 1280.3(b)(8) to take into account, among other criteria, the “extent to which the facility detected the violation and took steps to immediately correct the violation and prevent the violation from recurring.”

Subdivision (b)(1) states that the base penalty is adjusted downward by five percent if hospital inspections within the last three years prior to the date of violation indicated no state or federal deficiencies that resulted in patient harm or immediate jeopardy.

Section 70958, to specify how the final penalty is reached and with applied adjustments pursuant to Section 70957, including that the final penalties are never more than the statutory maximums. This section is necessary to make clear how a final penalty is calculated.

Section 70959, to specify how administrative penalties are assessed for a violation of Hospital Fair Pricing Policies Requirements. The laws regulating hospital fair pricing policies for discount payment and charity care (“discount and charity care policy laws”) were enacted in 2006 to protect the financial interests of uninsured and underinsured consumers of healthcare, and are enforced by the Department as conditions of hospital licensure. H&SC Section 1280.3 was amended in 2007 to authorize the Department to assess administrative penalties for these violations.

Section 70960, to specify the considerations made for small and rural hospitals that are assessed an administrative penalty under HSC 1280.3. This section provides an option for a small and rural hospital (as defined in H&SC § 124840) that has been assessed an administrative penalty to request an extended payment plan, if immediate, full payment of the penalty would cause extreme financial hardship to the hospital. The small and rural hospital may also request reduction of the penalty, if extending the payment over a period of time would cause extreme financial hardship to the hospital. This regulation is necessary to address the statutory mandate of H&SC Section 1280.3(h) that the Department “take into consideration the special circumstances of small and rural hospitals . . . in order to protect access to quality care in those hospitals,” and to describe a process for the Department to review these special circumstances.

FORMS INCORPORATED BY REFERENCE

N/A

MANDATED BY FEDERAL LAW
OR REGULATIONS

N/A

OTHER STATUTORY REQUIREMENTS

N/A

LOCAL MANDATE

The Department has determined that the regulations 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: The Department has determined that there will be local government hospitals affected by this mandate. A total of 32 county hospitals and two city hospitals fall under local government. However, there is no negative fiscal impact to be noted and no related reimbursable cost associated with this requirement as outlined in part 7 (commencing with Section 17500) of division 4 of the Government Code and therefore all costs related to this regulation have been taken into consideration with no change or impact to be reported at this time.

B. Fiscal Effect on State Government: The Department has determined there will not be an increase in costs to State government to implement the regulations. The regulations provide the Department with guidelines and criteria for assessing administrative penalties for both immediate jeopardy and non-immediate jeopardy violations to be levied against General Acute Care Hospitals (GACHs), Acute Psychiatric Hospitals (APHs), and Specialty Hospitals (SHs). The Department has established an electronic standardized working tool that will automatically calculate the appropriate amount of an administrative penalty based on the findings of a facility survey or complaint investigation using the criteria in the regulations. Use of the tool diminishes the increased workload that might have been associated with manually calculating and issuing APs in accordance with the guidelines of the proposed regulations.

In order to reach this conclusion the Department had existing staff to test the tool for impact, to workload, using historical data from previously issued violations that would fall within the category of being issued an administrative penalty under the proposed regulations.

Increased administrative penalties will be issued and potentially collected by the proposed regulations as a result of the issuance of monetary penalties for violations that are at a severity level of less than an immediate jeopardy to patients.

- C. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: There are no known nondiscretionary costs or savings imposed on local agencies related to this regulation.
- D. Fiscal Effect on Federal Funding of State Programs: There is no known impact on federally funded programs related to the promulgation of this regulation.

HOUSING COSTS

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

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

CDPH has determined that the proposed regulatory action would have an adverse economic impact on California business enterprises. However, it should be noted that only in the event that a GACH, APH or SH is in violation of the licensing standards, where the violation resulted in more than the potential for minimal harm to a patient(s) will they be subject to receiving an administrative penalty for an immediate jeopardy or a non-immediate jeopardy type violation. Therefore, only hospitals that are in noncompliance with licensure requirements stand to be negatively impacted by a proposed administrative penalty. Hospitals who maintain the required licensure standards and are in good standing with both state and federal requirements will not be negatively affected by this mandate and not be subject to financial penalties.

The final amount of the penalty levied against a hospital will be dependent on the number of occurrences and the scope and severity of their actions. The greater degree of harm and number of times a penalty has been repeated would yield a higher penalty amount.

It is not anticipated that this mandate will affect the ability of California businesses (hospitals) to compete with businesses in other states.

RESULTS OF ECONOMIC IMPACT ANALYSIS

1. **The creation or elimination of jobs within the State of California.** This proposal will not result in any increase or elimination of jobs within California.

2. **The creation of new businesses or the elimination of existing businesses within the State of California.** This proposal will not have any impact and/or effect on the creation or elimination of new business within the State of California.
3. **The expansion of businesses currently doing business within the State of California.** This proposal will not have any effect on how business is impacted within the State of California.
4. **The benefits of the regulation to the health and welfare of California residents, and increases worker safety.** This proposal was introduced to effectively enforce compliance with licensure requirements by increasing the maximum penalties against hospitals for the most serious deficiencies that constitute immediate jeopardy, and to deter less serious violations that do not constitute immediate jeopardy. At the same time, the regulations promote statewide consistency in assessment of administrative penalties by applying specific criteria by which to calculate the amount of the penalty, and finally the main benefit is aimed at improving the health, safety and welfare of California residents while within acute care hospitals by applying stiffer penalties and applying penalties to the less serious violations that effect a patient's health, welfare and or safety.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The Department estimates that approximately 435 General Acute Care Hospitals, 138 APHs, and one SH will be impacted by this mandate. The Department is unable to determine the impact on hospitals as it is impossible to speculate who will be in violation and what the resulting penalty would be. However, the Department did assess last year's administrative penalties using the new criteria and regulatory process to review the penalty outcomes and detriment to those affected. It was also noted that there would be an increase in cost related to the non-IJ administrative penalty, since prior to implementing 1280.3, hospitals did not receive an administrative penalty and will now be assessed a penalty up to the maximum amount of \$25,000. The penalty will depend on the scope and severity of the situation and can be reduced depending on the circumstances affecting the situation. It should be noted that only in the event a hospital is in violation of licensing standards where the violation is not a minor violation will they be subject to receiving an administrative penalty of any kind (except for violations of the Fair Pricing Policies requirements). Hospitals compliant with statutory and

regulatory requirements will not be subject to any penalty process and there would be no financial effects associated with this regulatory process. The Legislature's goal was to increase the maximum penalty amount and subject the deficiencies to an administrative penalty in the hope that the hospitals will make additional efforts to be in compliance assuring those within their care a safer and harm-free environment.

The immediate jeopardy penalty maximum will be increased by \$25,000 for first, second, third and consecutive penalties following promulgation of the regulations. The maximum penalty amounts will be assessed without consideration of other factors when an immediate jeopardy violation results in death to a patient. In other instances when a violation does not result in death to a patient, application of statutory-specific criteria could result in a hospital's administrative penalty being issued for less than the maximum penalty amount.

The Department has determined that there will be no costs for individuals.

BUSINESS REPORT

N/A

SMALL BUSINESS

The Department has determined that there will be an effect on small business (hospitals), since all GACHs, APHs & SHs fall under the regulation parameters despite their size and or location. However, the Legislature did include specific guidelines and considerations to be included within the regulation to provide appropriate consideration and exceptions for the small and rural hospital community to be used when being assessed an administrative penalty in order to prevent any possible excessive financial burden that may cause the hospital to go out of business. The guidelines include alternatives that provide the Department with the option of reducing the final penalty amount to avoid possible closure of a facility due to creating excessive financial burden, and by providing a period of time with which to make payments for any penalty that cannot be paid upon receipt.

ALTERNATIVES STATEMENT

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or

would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CONTACT PERSON

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Debby Rogers or Pam Dickfoss of the Center for Healthcare Quality, at (916) 324-6630.

All other inquiries concerning the action described in this notice may be directed to Coleen Keelan, Office of Regulations, at (916) 440-7439, or to the designated backup contact person, Alana McKinzie at (916) 440-7689.

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-09-012.

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

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

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (916) 440-7683 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT REGARDING THE 2013 CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2, CHAPTER 11A ONLY (HCD)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2, Chapter 11A. HCD is proposing building standards related to Housing Accessibility.

PUBLIC COMMENT PERIOD

(Government Code Section 11346.5(a)(17))

A public hearing has not been scheduled; however, written comments will be accepted from **October 26, 2012 until 5:00 p.m. on December 10, 2012**. Please address your comments to:

**California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833
Attention: Jim McGowan, Executive Director**

Written comments may also be faxed to (916) 263-0959 or e-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly

authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS
(Government Code Section 11346.5(a)(18))

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

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

AUTHORITY AND REFERENCE
(Government Code Section 11346.5(a)(2))

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 18949.5 and 18949.6. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 17000–17062.5, 17910–17995.5, 18200–18700, 18860–18874, and 19960–19997; and Government Code Sections 12955.1 and 12955.1.1. HCD is proposing this regulatory action based on Health and Safety Code Sections 17040, 17050, 17920.9, 17921, 17921.3, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17927, 17928, 17959.6, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1–18873.5, 18938.3, 18944.11 and 19990; and Government Code Section 12955.1.

INFORMATIVE DIGEST
(Government Code Section 11346.5(a)(3))

Summary of Existing Laws

Section 17921 of the Health and Safety Code and Section 12955.1 of the Government Code require HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

Section 17922 of the Health and Safety Code requires that the building standards be essentially the same as the most recent editions of the uniform industry codes. The CBSC is authorized to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5.

Health and Safety Code Section 17922 states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

Health and Safety Code Section 17040 requires HCD to adopt building standards for employee housing for “. . . the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing.”

Health and Safety Code Sections 18300 and 18865 require HCD to adopt building standards for mobile-home parks and special occupancy parks.

Health and Safety Code Section 19990 requires HCD to adopt building standards for factory-built housing.

Summary of Existing Regulations

The California Building Code, Part 2 of Title 24 of the California Code of Regulations (CCR), also known as the California Building Standards Code, adopted by reference the 2009 International Building Code (IBC) with California amendments, effective on January 1, 2011.

The purpose of this code is to establish the minimum requirements necessary to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, accessibility, use and occupancy, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment.

Summary of Effect

HCD proposes to amend the 2010 California Building Code, Title 24, Part 2, Chapter 11A for adoption into the 2013 California Building Code, Title 24, Part 2, Chapter 11A of the California Code of Regulations for the following programs:

- (a) State Housing Law: relative to residential occupancies, buildings or structures accessory thereto and as provided for through the Federal Fair Housing Amendment Act’s and state law accessibility requirements, except where the application is for public use only.

- (b) Employee Housing Act: relative to the use of any buildings or structures on the property in accordance with Health and Safety Code Section 17040.
- (c) Mobilehome Parks and Special Occupancy Parks: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with Health and Safety Code Sections 18300 and 18865.
- (d) Factory-built Housing Law: relative to residential buildings, dwellings or portions thereof, or building component, or manufactured assemblies in accordance with Health and Safety Code Section 19990.

The amendments provide consistency with model code format, state and federal laws and regulations, and conditions unique to California. In addition, the amendments provide clarity and specificity, and give direction for the code user.

An in-depth discussion of the effect of the amendments may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

None.

Policy Statement Overview

The proposed regulations will adopt, amend or repeal existing building standards and establish new building standards, which will affect residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of General Design, Structural, and Fire and Life Safety Requirements in housing construction, buildings and structures accessory thereto; and permanent buildings in mobilehome parks and special occupancy parks.

The benefits anticipated from this proposed regulatory action include updating building standards, which will result in the protection of public health and safety, worker safety, the environment and general welfare of California residents. Also, providing the most recent methods and applying those building standards on a statewide basis, as required by statute, results in uniformity and promotes affordable costs.

Evaluation of Consistency

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

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

(Government Code Section 11346.5(a)(4))

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS
(Government Code Section 11346.5(a)(5))

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts; and therefore, does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS
(Government Code Section 11346.5(a)(6))

- A. Cost or Savings to any state agency: Health and Safety Code Section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to the Commission pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of the Government Code. Part 2.5 of the Government Code requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location with the California Building Standards Code to meet these requirements. This action will result in a minimal cost to HCD, which will be absorbed in the current budget.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
- D. Other nondiscretionary cost or savings imposed on local agencies: NONE.
- E. Cost or savings in federal funding to the state: NONE.

Estimate: HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES
(Government Code Section 11346.5(a)(8))

HCD has made an initial determination that the proposed action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other States. (See *Economic Impact of the Proposed California Building Code Regulations on Private*

Persons and Businesses in the State of California in the rulemaking file.)

DECLARATION OF EVIDENCE
(Government Code Section 11346.5(a)(2))

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE
(Government Code Section 11346.3(d))

HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3(c) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS
(Government Code Section 11346.5(a)(9))

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

SMALL BUSINESS EFFECT

HCD has initially determined that a small business may be affected by these proposed regulations. (See *Economic Impact of the Proposed California Building Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION
(Government Code Sections 11346.3(b)(1) and 11346.5(a)(10))

HCD has initially assessed whether or not, and to what extent, this proposal will affect the following:

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

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

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

These regulations will not affect the creation or the elimination of existing business within the State of California.

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

These regulations will not affect the expansion of businesses currently doing business within the State of California.

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

These regulations will update and improve minimum building standards, which will provide increased protection of public health and safety, worker safety and the environment.

(See *Economic Impact of the Proposed California Building Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS
(Government Code Section 11346.5(a)(12))

HCD has made an initial determination that this proposal would not have a significant effect on housing costs. The CBSC contact person designated below will make HCD's initial evaluation of the effect of the proposed regulatory action on housing costs available upon request. (See *Economic Impact of the Proposed California Building Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

CONSIDERATION OF ALTERNATIVES
(Government Code Section 11346.5(a)(13))

HCD must determine that no reasonable alternative considered by HCD, or that has otherwise been identified and brought to the attention of HCD, 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 provisions of law.

AVAILABILITY OF
RULEMAKING DOCUMENTS

(Government Code Sections 11346.5(a)(19) and
11346.5(a)(20))

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review by contacting the person named below. This Notice, the Express Terms and Initial Statement of Reasons can also be accessed from the California Building Standards Commission website at <http://www.bsc.ca.gov>; in addition, the rulemaking documents will be posted on HCD's website at http://www.hcd.ca.gov/codes/sh1/2013codeadoptproj_part2.html.

Interested parties may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website or HCD's website.

DISABILITY ACCESS

(Government Code Section 11346.6)

HCD shall provide, upon request from a person with a visual disability or other disability for which effective communication is required under state or federal law, a narrative description of the additions to, and deletions from, the California Code of Regulations or other publication in a manner that allows for accurate translation by reading software used by the visually impaired.

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

(Government Code Section 11346.5(a)(14))

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

- CBSC Contact:** Enrique Rodriguez
- CBSC Back-up:** If the contact person is unavailable, please contact Michael Nearman at the phone number or fax number provided below.
- CBSC Address:** California Building Standards
Commission
2525 Natomas Park Drive,
Suite 130
Sacramento, CA 95833
- CBSC Telephone:** (916) 263-0916
CBSC Fax: (916) 263-0959

CBSC E-mail: CBSC@dgs.ca.gov

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

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

Stoyan Bumbalov, District Representative II
HCD, Division of Codes and Standards
Telephone: (916) 445-9471; Fax: (916) 327-4712
E-mail: sbumbalov@hcd.ca.gov

Back-up:

Shawn Huff, State Housing Law Programs Manager
HCD, Division of Codes and Standards
Telephone: (916) 445-9471; Fax: (916) 327-4712
E-mail: shuff@hcd.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE DIVISION
OF THE STATE ARCHITECT REGARDING
THE ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 1, CHAPTER 5**

**Article 5-104 — FEES and 5-106 — Revision of
Plans and Specifications**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Division of the State Architect (DSA), proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1. The DSA is proposing building standards related to fees collected for review of applications and revisions.

PUBLIC COMMENT PERIOD

CBSC will accept written comments concerning the notices of proposed actions for at least 45 days between October 26, 2012 and December 10, 2012. All written comments for this period must be submitted no later than 5:00 p.m. on December 10, 2012.

California Building Standards Commission
 2525 Natomas Park Drive, Suite 130
 Sacramento, CA 95833
 Attention: Jim McGowan, Executive Director

Written comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE
 TEXT OF THE REGULATIONS
 (Government Code Section 11346.5(a)(18))

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

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

AUTHORITY AND REFERENCE
 (Government Code Section 11346.5(a)(2))

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 18930 and 18949.1. The purpose of these building standards is to implement, interpret, and make specific the provisions of Government Code Section 4450 through 4461. The Department of General Services/Division of the State Architect is proposing this regulatory action based on Government Code Section 4454.

INFORMATIVE DIGEST
 (Government Code Section 11346.5(a)(3))

Summary of Existing Laws

- Health and Safety Code Section 18930 states any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards Commission prior to codification. Building

standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the Building Standards Commission, justify the approval thereof in terms of criteria for costs and benefits.

- Section 18949.1 of the Health and Safety Code states that any responsibilities of the State Architect to adopt regulations relating to building standards are hereby transferred to the California Building Standards Commission.
- Section 4450 of the Government Code authorizes the State Architect to establish building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities.
- Section 4454 of the Government Code requires the Department of General Services' review and approval of building projects utilizing state funds (including public school and community colleges) to ensure compliance with accessibility standards. Section 4454 also authorizes the Department to collect a filing fee for the services and include the cost of carrying out the responsibilities for development of building standards as part of the plan review costs in determining fees.

Summary of Existing Regulations

- Existing administrative standards allow the Division of the State Architect (DSA) to collect fees as a percentage of the estimated construction costs for projects submitted for plan review.
- Section 5-104 of Title 24, Part 1, directs the DSA to conduct a review of the fee schedule in 2011 and within every four years thereafter. Upon review of the fee schedule, DSA may reduce the fees or propose a fee schedule increase.

Summary of Effect

The proposed regulatory action will result in a revised fee schedule for projects submitted to the DSA for review and approval of compliance with accessibility standards pursuant to Government Code section 4454(d). The fees are based on percentage of the estimated costs of construction projects submitted for plan review.

Comparable Federal Statute or Regulations

There are no comparable Federal statutes or regulations to these proposed State regulations regarding fees.

Policy Statement Overview

The Disability Access Account fee structure for the DSA activities was established through the California Building Standards Commission in 1990. This fee

schedule was updated effective February 13, 2010. Those regulation amendments also implemented a periodic fee review process starting in 2011.

Evaluation of consistency

There are no inconsistent or incompatible regulations proposed.

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

(Government Code Section 11346.5(a)(4))

There are no other matters prescribed by statute applicable to the Division of the State Architect, or to any specific regulation or class of regulations.

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

(Government Code Section 11346.5(a)(5))

The Division of the State Architect has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

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

Estimate: Not applicable.

**INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES**

The Division of the State Architect has made an initial determination that the adoption/amendment/ repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

No facts, evidence, documents, testimony or other evidence has been relied upon to support the initial determination of no effect.

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

The proposed action does not require a report by any business or agency, so the Division of the State Architect has not made a finding of necessity for public's health, safety or welfare.

**COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS**

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

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

The Division of the State Architect has assessed whether or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California.
The DSA has determined that the proposed action has no effect.
- The creation of new businesses or the elimination of existing businesses within the State of California.
The DSA has determined that the proposed action has no effect.
- The expansion of businesses currently doing business with the State of California.
The DSA has determined that the proposed action has no effect.
- The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.
The DSA has determined that the proposed action has no effect.

**INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS**

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

(The CBSC contact designated below will make the DSA evaluation of the effect of the proposed regulatory action on housing costs available upon request.)

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

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

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

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

Enrique M. Rodriguez,
Associate Construction Analyst
Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959

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

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

Dale Kuroda, Business Operations Deputy
Department of General Services
Division of the State Architect
(916) 322-0600
Dale.Kuroda@dgs.ca.gov
(916) 324-0207

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION FOR PROPOSED BUILDING STANDARDS OF THE DIVISION OF THE STATE ARCHITECT (DSA-AC) REGARDING THE CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2 2013 CALIFORNIA BUILDING CODE

Notice is hereby given that the California Building Standards Commission (CBSC), on behalf of the Division of the State Architect (DSA-AC), proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The DSA-AC is proposing building standards related to the 2013 California Building Code.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 26, 2012 until 5:00 p.m. on December 10, 2012. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Jim McGowan, Executive Director

Written comments may also be faxed to (916) 263-0959, or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

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

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

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18928.

For DSA-AC the purpose of these building standards is to implement, interpret, and make specific the provisions of Government Code Sections (GC§§) 4450 through 4461, 12955.1 and 14679; Health and Safety Code Section (H&SC§) 18949.1 and 19952 through 19959; and Vehicle Code Section 22511.8. DSA-AC is proposing this regulatory action based on GC§ 4450.

INFORMATIVE DIGEST

Summary of Existing Laws

Government Code Section 4450 authorizes the State Architect to develop regulations for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities.

Summary of Existing Regulations

Existing regulations are applicable to:

- 1) Publicly funded buildings, structures, sidewalks, curbs and related facilities;
- 2) All privately funded public accommodations, and commercial facilities; and
- 3) Public housing and private housing available for public use.
- 4) Any portable buildings leased or owned by a school district, and
- 5) Temporary and emergency buildings and facilities.

Existing California state regulations incorporate standards that are:

- 1) Not aligned nor consistent with those regulations published in the Federal Register on September 15, 2010 by the United States Department of Justice for Titles II and III of the Americans with Disabilities Act of 1990 for barrier-free design under:
 - 2010 Standards for State and Local Government Facilities: Title II (28 CFR part 35.151 New Construction and Alterations);
 - 2010 Standards for Public Accommodations and Commercial Facilities: Title III (28 CFR part 36 Subpart D, New Construction and Alteration);
 - 2010 Standards for Titles II and III Facilities: 2004 ADAAG (36 CFR part 1191, appendices B and D).
- 2) Based on the Fair Housing Amendments Act of 1988, and
- 3) Based on the 2009 International Building Code.

Summary of Effect

The proposed action would update the California Code of Regulations, Title 24, Part 2 by:

- Repealing the adoption by DSA-AC of the 2009 edition International Building Code and adopting the 2012 edition International Building Code (published by the International Code Council) with the exception of Chapter 11 — Accessibility as the model code for the 2013 California Building Code;
- Repealing the adoption of the 2010 California Building Code, Chapters 11A — Housing Accessibility, with the exception of Division IV, which will be retained, 11 B — Accessibility to Public Buildings, Public Accommodations, Commercial Buildings and Publicly Funded Housing and 11 C — Standards for Card Readers at Gasoline Fuel Dispensing Facilities;
- Adopting the 2010 Americans with Disabilities Act Standards for Accessible Design (2010 ADAS) 2004 Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG) as the model code for the 2013 California Building Code Chapter 11B Accessibility to Public Buildings, Public Accommodations, Commercial Buildings and Public Housing;
- Amending the model codes to incorporate provisions of the 2010 Standards for State and Local Government Facilities: Title II regulations, the 2010 Standards for Public Accommodations and Commercial Facilities: Title III regulations and accessibility provisions from the 2010 California Building Code Chapters 11A, 11 B and 11 C that provide greater accessibility than the adopted model codes; and

- Amending the model codes to implement California state statutory mandates.

Comparable Federal Statute or Regulations

Revised regulations for Title II and Title III of the Americans with Disabilities Act of 1990 as adopted by the US Department of Justice. The regulations provide revised enforceable standards for accessible design, known as the 2010 ADA Standards for Accessible Design in three parts:

- 2010 Standards for State and Local Government Facilities: Title II Regulations at 28 CFR Part 35.151;
- 2010 Standards for Public Accommodations and Commercial Facilities: Title III Regulations at 28 CFR Part 36, Subpart D;
- 2010 Standards for Title II and III Facilities: 2004 ADAAG

Fair Housing Amendments Act of 1988.

Policy Statement Overview

The broad objective of the proposed action is to make effective the 2012 edition of the International Building Code (IBC) and the 2010 ADA Standards as the 2013 edition California Building Code (CBC) for application by DSA-AC to ensure that publicly funded buildings, structures, sidewalks, curbs, and related facilities shall be accessible to and usable by persons with disabilities; privately funded public accommodations and commercial facilities shall be accessible to and usable by persons with disabilities and public housing and private housing available for public use shall be accessible to and usable by persons with disabilities.

Evaluation of consistency

There are no inconsistent or incompatible regulations proposed.

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

There are no other matters prescribed by statute applicable to the Division of the State Architect, or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Division of the State Architect has determined that the proposed regulatory action would not impose a new mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

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

INITIAL DETERMINATION OF SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The DSA has made an initial determination that the adoption/amendment/repeal of these regulations will not have a significant, statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

No facts, evidence, documents, testimony or other evidence has been relied upon to support the initial determination of no effect.

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

The proposed action does not require a report by any business or agency, so the Division of the State Architect has not made a finding of necessity for public's health, safety or welfare.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

- The DSA has assessed whether or not and to what extent this proposal will affect the following:
- The creation or elimination of jobs within the State of California.

The DSA has determined that the proposed action has no effect.

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

The DSA has determined that this proposal has no effect.

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

The DSA has determined that the proposed action has no effect.

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

The DSA has determined that the proposal establishes minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, access to persons with disabilities, sanitation, adequate lighting and ventilation, and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to fire fighters and emergency responders during emergency operations.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The DSA has made an initial determination that this proposal would not have a significant effect on housing costs. DSA-AC is coordinating the 2012 Triennial Code Adoption Cycle with the Department of Housing and Community Development.

(The CBSC contact designated below will make the DSA-AC evaluation of the effect of the proposed regulatory action on housing costs available upon request.)

CONSIDERATION OF ALTERNATIVES

The DSA has determined that no reasonable alternative considered by DSA or that has otherwise been identified and brought to the attention of DSA 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 provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review by contacting the person named below. This notice, the express terms, and initial statement of reasons can be accessed from the California Building Standards Commission website:

(<http://www.bsc.ca.gov>)

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

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

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

Enrique M. Rodriguez,
Associate Construction Analyst
Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone No: (916) 263-0916
Facsimile No: (916) 263-0959

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

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

Dennis J. Corelis, Deputy State Architect
Ph. (916) 445-4167
Dennis.Corelis@dgs.ca.gov

Derek Shaw, Associate Architect
Ph. (916) 324-7178
Derek.Shaw@dgs.ca.gov

Division of the State Architect — Headquarters
1102 Q Street, Suite 5100
Sacramento, CA 95811
DSA Facsimile No: (916) 445-7658

GENERAL PUBLIC INTEREST

DEPARTMENT OF REAL ESTATE

NOTICE OF PROPOSED ACTION BY THE REAL ESTATE COMMISSIONER: ANNUAL FEE REVIEW — REQUIRED BY STATUTE

William E. Moran, Acting Chief Deputy Real Estate Commissioner, proposes to consider whether the fees charged by the Department should be lower than the maximum amount allowed pursuant to California Business and Professions Code (hereinafter the "Code") Sections 10209.5, 10210, 10214.5, 10215, 10250.3 and 11011. The Department staff's consideration will include all comments, objections and recommendations regarding such fees.

PROPOSED REGULATORY ACTION

Sections 10226 and 11011 of the Code require, among other things, that at least one regulation hearing be held each calendar year to determine if fees lower than those authorized under Section 10226.5(b) of the Code should be prescribed. The hearing referred to below shall serve as the regulation hearing for the purpose of satisfying the requirement of Sections 10226(a) and 11011(a) of the Code. The Department of Real Estate may present, at this hearing, relevant data compiled by the Department, and other sources, if appropriate, that have been used or which may be used in making the determination if fees should be lower. There is no proposal to adopt, amend and/or repeal any sections of the California Code of Regulations (CCR) at this time. However, Departmental staff wish to consider all comments, objections and recommendations regarding such fees.

PUBLIC HEARING

The Department will hold a public hearing starting at 10:00 a.m., on December 12, 2012, at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Department's fee structure. The written comment period closes on December 12, 2012. All written comments must be received by 5:00 p.m. on that date at the Department's Sacramento Office as follows:

Daniel E. Kehew, Real Estate Counsel
 Department of Real Estate
 2201 Broadway
 Sacramento, CA 95818

Telephone: (916) 227-0425

Backup contact person for this proposed action is Mary Clarke at (916) 227-0780.

AUTHORITY AND REFERENCE

Business and Professions Code Sections 10209.5, 10210, 10214.5, 10215, 10250.3 and 11011.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

No regulations are proposed to be adopted, amended or repealed.

EFFECT ON SMALL BUSINESS

There are no proposed regulatory actions to affect small business.

DISCLOSURES REGARDING THE PROPOSED ACTION

There are no proposed regulatory actions requiring disclosures.

CONSIDERATION OF ALTERNATIVES

There are no proposed regulatory actions requiring consideration of alternatives.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

Daniel E. Kehew, Real Estate Counsel
 Department of Real Estate
 2201 Broadway
 P. O. Box 187000
 Sacramento, CA 95818-7000
 Telephone: (916) 227-0425

**AVAILABILITY OF STATEMENT OF REASONS,
TEXT OF PROPOSED REGULATIONS AND
INTERNET SITE**

There is no Statement of Reasons or text of proposed regulations.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

There is no changed or modified text.

**COMPLIANCE WITH GOVERNMENT CODE
SECTION 11346.4(a)(1) THROUGH (4)**

The Department of Real Estate will mail or deliver a copy of this Notice of Proposed Action by the Real Estate Commissioner to the Department's list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with the Department.
2. The Director of the Department. (The Real Estate Commissioner and the Secretary of the Business, Transportation and Housing Agency).
3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be affected by any fee adjustment. The Department has no way of knowing which licensees are small businesses.
4. The California Association of Realtors (a real estate licensee trade organization) and the California Building Industry Association (a home builders trade organization).
5. A substantial number of land developers. Not small businesses by definition, they may, nevertheless, be affected by any fee adjustment.

**PHYSICAL THERAPY BOARD OF
CALIFORNIA**

NOTICE OF CORRECTION

The Physical Therapy Board of California (Board) noticed a proposed regulatory change to add Section 1398.14 to Division 13.2 of Title 16 of the California Code of Regulations (CCR) in Register number 38-Z published September 21, 2012. The Board has since made a non-substantive correction to the section number; no changes were made to the content of the proposed regulation. The new proposed section number is 1398.15.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

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

File# 2012-0831-01

AIR RESOURCES BOARD

ATCM for In-Use Diesel-Fueled TRU

The Air Resources Board amended section 2477 of title 13 of the California Code of Regulations, Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRU's Operate, to provide a one year extension from the Ultra-Low Emission TRU (ULETRU) in-use performance standards for model year 2001 through 2003 TRU Engines that complied with applicable Low Emission TRU (LETRU) in-use performance standards within the required time periods. The amendments also clarify manual recordkeeping requirements, require automated electronic tracking systems, establish requirements for businesses that arrange, hire, contract, or dispatch the transport of goods in TRU-equipped trucks, trailers or containers, and clarify issues identified during the implementation of the regulation.

Title 13

California Code of Regulations

ADOPT: 2477.1, 2477.2, 2477.3, 2477.4, 2477.5, 2477.6, 2477.7, 2477.8, 2477.9, 2477.10, 2477.11, 2477.12, 2477.13, 2477.14, 2477.15, 2477.16, 2477.17, 2477.18, 2477.19, 2477.20, 2477.21

AMEND: 2477

Filed 10/15/2012

Effective 10/15/2012

Agency Contact: Amy Whiting (916) 322-6533

File# 2012-0905-03

CALIFORNIA HORSE RACING BOARD

Prohibition on Entering of Pregnant Mares Beyond 120 Days Gestation

The California Horse Racing Board (CHRB) is adopting a regulation to exclude pregnant mares beyond 120 days of gestation due to the health risks to the mare.

Title 4
 California Code of Regulations
 ADOPT: 1581.2
 Filed 10/16/2012
 Effective 11/15/2012
 Agency Contact: Erica Ward (916) 263-6025

Title 15
 California Code of Regulations
 ADOPT: 3375.6 AMEND: 3000, 3375
 Filed 10/17/2012
 Effective 10/17/2012
 Agency Contact: Sarah Pollock (916) 445-2266

File# 2012-0905-01
CALIFORNIA HORSE RACING BOARD
 Prohibited Veterinary Practices

The California Horse Racing Board amended section 1867 of Title 4 of the California Code of Regulations, "Prohibited Veterinary Practices," to add ractopamine and zilpaterol, or their metabolites or analogues, to the list of drug substances whose possession and/or use of on the premises of a facility under the jurisdiction of the Board is considered a prohibited veterinary practice.

Title 4
 California Code of Regulations
 AMEND: 1867
 Filed 10/10/2012
 Effective 11/09/2012
 Agency Contact: Erica Ward (916) 263-6025

File# 2012-0828-04
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 Federal HOME Investment Partnership Program

This rulemaking action by the Department of Housing and Community Development amends sections 8201, 8205, and 8212 of title 25 of the California Code of Regulations. These rules establish procedures for award, disbursement, and use of federal HOME Program funds, in accordance with comprehensive requirements prescribed in 24 CFR Part 92.

Title 25
 California Code of Regulations
 AMEND: 8201, 8205, 8212
 Filed 10/10/2012
 Effective 10/10/2012
 Agency Contact: Lenora Frazier (916) 323-4475

File# 2012-0905-02
CALIFORNIA HORSE RACING BOARD
 Errors Which Invalidate Claim

This rulemaking action amends section 1656 of Title 4 of the California Code of Regulations to add circumstances which will invalidate a claim of a horse by an eligible person in a claiming race and to incorporate by reference the Agreement to Claim form, CHR-11 (Rev. 8/00), which is used in the process of claiming a horse in a claiming race.

Title 4
 California Code of Regulations
 AMEND: 1656
 Filed 10/17/2012
 Effective 11/16/2012
 Agency Contact: Erica Ward (916) 263-6025

File# 2012-1003-01
DEPARTMENT OF TOXIC SUBSTANCES CONTROL
 Disposition Options for Universal Waste CRTs

This emergency rulemaking adopts 9 new sections and amends 9 sections in Title 22 of the California Code of Regulations. The state legislature enacted the Electronic Waste Recycling Act of 2003 (EWRA) to eliminate electronic waste stockpiles and legacy devices, including waste cathode ray tube (CRT) devices by providing a comprehensive and innovative system for their reuse, recycling, and proper and legal disposal. Maximizing participation in the EWRA reimbursement program is necessary to realize its full potential benefit to human health and the environment. Current regulations provide that CRT glass be sent only to a CRT glass manufacturer or a primary or secondary lead smelter for recycling. These regulations were adopted in 2004. Due to the rapid advancement in technology the demand for CRTs has greatly decreased so there is no longer a sufficient market for recycled CRT glass. And while smelters still accept CRT glass they do not have the capacity to significantly promote the recycling of the remaining CRT glass. This emergency rulemaking, therefore, expands the options for the disposition of CRTs and also amends the management standards. These regulations will authorize a universal waste handler who treats CRTs to recycle or dispose the generated CRT glass as fully regulated hazardous waste or to take advantage of exclusions from regulation as a hazardous waste pro-

File# 2012-1004-01
DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Automated Needs Assessment Tool

This regulatory action requires the administration of an automated needs assessment tool, which identifies an inmate's criminogenic needs, to be used in making decisions for placement of the inmate in a rehabilitative program. It requires that inmates be administered the tool during the reception center process and during any initial or annual review if one has not already been completed.

vided by the Health and Safety Code. These regulations also provide new notification requirements, and reporting and recordkeeping obligations intended to promote the enforcement, when necessary, of the new management standards. Requirements for protecting trade secrets are also contained in these regulations.

Title 22
 California Code of Regulations
 ADOPT: 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.90, 66273.91, 66273.100, 66273.101 AMEND: 66261.4, 66273.6, 66273.7, 66273.9, 66273.70, 66273.72, 66273.73, 66273.74, 66273.75
 Filed 10/15/2012
 Effective 10/15/2012
 Agency Contact: Krysia Von Burg (916) 324-2810

File# 2012-0829-02
**OFFICE OF ENVIRONMENTAL HEALTH
 HAZARD ASSESSMENT**
 Proposition 65 — Hexavalent Chromium Amendment
 This rulemaking by the Office of Environmental Health Hazard Assessment amends section 25707 of Title 27 of the California Code of Regulations. Specifically, section 25707(b) is amended to delete chromium (hexavalent compounds) from the list of chemicals that present no significant risk of cancer by the route of ingestion.

Title 27
 California Code of Regulations
 AMEND: 25707
 Filed 10/10/2012
 Effective 11/09/2012
 Agency Contact: Monet Vela (916) 323-2517

File# 2012-0906-04
SECRETARY OF STATE
 Notary Disciplinary Guidelines
 This regulatory action revises an incorporated by reference document, the Notary Public Disciplinary Guidelines to reflect changes in the statutes it implements, interprets and makes specific; and to clarify the process both for cases that have gone to administrative hearing and for petitions for reinstatement or reduction of penalty.

Title 2
 California Code of Regulations
 AMEND: 20804
 Filed 10/17/2012
 Effective 11/16/2012
 Agency Contact: Susan Lapsley (916) 651-7837

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN May 23, 2012 TO
 October 17, 2012**

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

Title 2
 10/17/12 AMEND: 20804
 10/03/12 ADOPT: 18730.1
 10/02/12 AMEND: 1859.2, 1859.71.4, 1859.78.1, 1859.79.2, 1859.82, 1859.83, 1859.106, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.163.5, 1859.193
 09/20/12 ADOPT: 59730
 09/19/12 AMEND: 1155.250, 1155.350
 09/14/12 REPEAL: 52100
 09/10/12 ADOPT: 59650
 08/30/12 AMEND: 60000, 60010, 60300, 60310, 60323, 60325, 60330, 60400, 60550, 60560, 60600, 60610 REPEAL: 60020, 60025, 60030, 60040, 60045, 60050, 60055, 60100, 60110, 60200
 08/16/12 AMEND: 1859.2, 1859.61, 1859.74, 1859.77.1, 1859.79, 1859.79.2, 1859.79.3, 1859.83, 1859.104 REPEAL: 1859.70.3, 1859.71.5, 1859.78.9, 1859.93.2, 1859.93.3
 08/13/12 ADOPT: 59720
 08/07/12 AMEND: 18640
 07/16/12 AMEND: 18215.3
 07/09/12 ADOPT: 22620.1, 22620.2, 22620.3, 22620.4, 22620.5, 22620.6, 22620.7, 22620.8
 06/28/12 AMEND: 649.32
 06/19/12 AMEND: 56800
 06/04/12 ADOPT: 18313.6
 05/29/12 AMEND: 20811(c)

Title 3
 09/21/12 AMEND: 3437(b) and (c)
 09/18/12 AMEND: 6449.1, 6486.7
 09/12/12 AMEND: 3700(c)
 09/12/12 AMEND: 3435(b)
 08/24/12 AMEND: 3406(b)
 08/22/12 AMEND: 6800(b)
 08/20/12 AMEND: 3435(b)
 08/06/12 AMEND: 3435(b)
 06/19/12 ADOPT: 6970, 6972 AMEND: 6000

Title 4

10/17/12 AMEND: 1656
 10/16/12 ADOPT: 1581.2
 10/10/12 AMEND: 1867
 09/27/12 AMEND: 5000, 5170, 5200, 5230, 5370, 5500, 5540
 09/12/12 ADOPT: 12391(a)(1), (3), (4), (b) & (c), 12392 AMEND: 12360
 09/04/12 AMEND: 10032, 10033, 10034, 10035
 08/30/12 ADOPT: 1489.1
 08/29/12 ADOPT: 5205 AMEND: 5000, 5054, 5144, 5190, 5200, 5230, 5370, 5170, 5350 REPEAL: 5133
 08/01/12 ADOPT: 5255, 5256 AMEND: 5170, 5230, 5250, 5560, 5580
 08/01/12 AMEND: 5000, 5052
 07/26/12 AMEND: 8070
 07/26/12 AMEND: 12101, 12202, 12205.1, 12218, 12218.7, 12218.8, 12222, 12225.1, 12233, 12235, 12238, 12309, 12335, 12342, 12350, 12352, 12354
 07/23/12 AMEND: 8035
 07/16/12 AMEND: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057
 06/25/12 AMEND: 8070, 8071, 8072, 8078, 8078.2
 06/25/12 AMEND: 1663
 06/06/12 AMEND: 1843.3
 06/01/12 ADOPT: 5205 AMEND: 5000, 5054, 5144, 5170, 5190, 5200, 5230, 5350, 5370 REPEAL: 5133

Title 5

09/27/12 ADOPT: 620, 621, 622, 623, 624, 625, 626, 627
 09/27/12 AMEND: 3000, 3010, 3021, 3021.1, 3022, 3023, 3024, 3025, 3027, 3028, 3042, 3051.4, 3051.75, 3051.8, 3051.9, 3051.12, 3051.13, 3051.17, 3051.18, 3052, 3053, 3062, 3063, 3064, 3066, 3067, 3069, 3080, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3088.1, 3088.2, 3089, 3090, 3091, 3092, 3093, 3094, 3096, 3096.1, 3096.2, 3097, 3098, 3098.1, 3098.2, 3099, 3100
 09/06/12 AMEND: 1216.1
 08/09/12 AMEND: 40403
 08/09/12 AMEND: 59400, 59402, 59404, 59406, 59408
 08/09/12 AMEND: 40500
 08/09/12 ADOPT: 40541
 08/09/12 AMEND: 40407.1
 08/08/12 ADOPT: 40540

08/08/12 ADOPT: 19824.1, 19841, 19851.1, 19854.1 AMEND: 19816, 19816.1, 19824, 19850, 19851, 19854
 07/31/12 AMEND: 19816, 19816.1, 19845.2
 06/12/12 ADOPT: 18004 AMEND: 18000, 18001, 18002, 18003
 05/29/12 AMEND: 42600

Title 7

07/03/12 AMEND: 219

Title 8

10/02/12 ADOPT: 1613.11, 1613.12 AMEND: 1600, 1610.1, 1610.3, 1610.4, 1610.9, 1611.1, 1612.3, 1613, 1613.2, 1613.10, 1616.1, 1617.1, 1617.2, 1617.3, 1618.1, 1619.1, 4885, 4999
 10/02/12 AMEND: 4297
 09/25/12 AMEND: 2950, 3420, 3421, 3422, 3423, 3424, 3425, 3426, 3427 REPEAL: 3428
 09/05/12 AMEND: 1512, 2320.10, 2940.10
 09/04/12 AMEND: 5189, 5192(a)(3), 5198(j)(2)(D)2., 1532.1(j)(2)(D)2.
 08/07/12 ADOPT: 3558 AMEND: 3207, 4184
 07/30/12 ADOPT: 32802, 32804 AMEND: 32380, 32603, 32604

Title 9

07/27/12 AMEND: 7141.5, 7143, 7227, 7350, 7351, 7353.6, 7354, 7355, 7356, 7357, 7358, 7400

Title 10

08/30/12 AMEND: 2468.5
 08/27/12 AMEND: 260.204.9
 08/22/12 ADOPT: 2327, 2327.1, 2327.2
 08/03/12 ADOPT: 2561.1, 2561.2
 07/19/12 AMEND: 2698.302
 07/19/12 AMEND: 2699.301
 07/19/12 AMEND: 5501, 5506
 05/31/12 AMEND: 2318.6, 2353.1, 2354

Title 11

09/18/12 AMEND: 410, 411, 415, 416, 417, 420, 421, 425 REPEAL: 419, 419.1
 07/31/12 AMEND: 999.16, 999.17, 999.19, 999.22
 06/26/12 AMEND: 1005, 1007, 1008
 06/21/12 AMEND: 1005, 1007

Title 12

06/04/12 AMEND: 506

Title 13

10/15/12 ADOPT: 2477.1, 2477.2, 2477.3, 2477.4, 2477.5, 2477.6, 2477.7, 2477.8, 2477.9, 2477.10, 2477.11, 2477.12, 2477.13, 2477.14, 2477.15, 2477.16, 2477.17,

	2477.18, 2477.19, 2477.20, 2477.21 AMEND: 2477		REPEAL: 17942, 17944.2, 17944.5, 17945
10/09/12	AMEND: 2260, 2261, 2264, 2265, 2265.1, 2266, 2266.5, 2271 REPEAL: 2258	06/25/12	AMEND: 791.7
09/25/12	AMEND: 156.00, 156.01	06/06/12	ADOPT: 18950, 18951, 18952, 18953, 18954, 18955, 18955.1, 18955.2, 18955.3, 18956, 18957, 18958
09/14/12	AMEND: 2479	06/01/12	REPEAL: 660
08/07/12	ADOPT: 1962.2 AMEND: 1962.1, 1962.2 (renumbered to 1962.3)	05/30/12	AMEND: 11960
08/07/12	ADOPT: 1961.2, 1961.3 AMEND: 1900, 1956.8, 1960.1, 1961, 1961.1, 1965, 1968.2, 1968.5, 1976, 1978, 2037, 2038, 2062, 2112, 2139, 2140, 2145, 2147, 2235, 2317	05/29/12	AMEND: 360, 361, 362, 363, 364, 365, 708.12
08/02/12	ADOPT: 426.00	Title 15	
07/30/12	AMEND: 1268, 1270.3	10/17/12	ADOPT: 3375.6 AMEND: 3000, 3375
07/12/12	ADOPT: 345.58, 345.73 AMEND: 345.50, 345.52, 345.56, 345.74, 345.78, 345.86, 345.88, 345.90 REPEAL: 345.54, 345.58, 345.60	10/04/12	ADOPT: 3352.3 AMEND: 3350.1, 3352, 3352.1, 3352.2, 3354, 3354.2, 3355.1, 3358
06/29/12	AMEND: 225.00, 225.03, 225.09, 225.12, 225.15, 225.18, 225.21, 225.24, 225.35, 225.36, 225.38, 225.42, 225.45, 225.54, 225.60, 225.63, 225.66, 225.69, 225.72 REPEAL: 225.06	09/25/12	ADOPT: 1712.1, 1714.1, 1730.1, 1740.1, 1748.5 AMEND: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.1, 1747.5, 1748, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788 REPEAL: 1757
Title 13, 17		09/13/12	AMEND: 3162
09/14/12	AMEND: 2299.2, 93118.2	09/13/12	ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323
Title 14		08/29/12	AMEND: 2606, 2635.1, 2646.1, 2733, 2740, 2743, 2744
10/03/12	AMEND: 300	08/20/12	AMEND: 1006, 1007, 1008, 1012, 1013, 1024, 1032, 1044, 1046, 1051, 1055, 1056, 1058, 1059, 1062, 1063, 1069, 1072, 1080, 1081, 1083, 1084, 1100, 1104, 1125, 1140, 1141, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1151, 1203, 1205, 1206, 1208, 1217, 1241
10/02/12	AMEND: 632	07/02/12	ADOPT: 3999.12
09/27/12	ADOPT: 1667.1, 1667.2, 1667.3, 1667.4, 1667.5, 1667.6	06/26/12	ADOPT: 1712.1, 1714.1, 1730.1, 1740.1, 1748.5 AMEND: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.1, 1747.5, 1748, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788 REPEAL: 1757
09/25/12	AMEND: 18660.40	06/26/12	ADOPT: 3079, 3079.1 AMEND: 3000, 3075.2, 3075.3
09/21/12	AMEND: 502	06/26/12	AMEND: 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, 3521.2
09/12/12	AMEND: 18660.17, 18660.19, 18660.31	06/06/12	AMEND: 3000, 3006, 3170.1, 3172.1, 3173.2, 3315, 3323
09/07/12	AMEND: 300	Title 16	
08/31/12	ADOPT: 671.8 AMEND: 671.1	09/25/12	AMEND: 1514, 1525.1
08/14/12	AMEND: 13055	09/25/12	AMEND: 3340.15, 3394.6
08/02/12	ADOPT: 2231, 2301 AMEND: 2000, 2200, 2230, 2235, 2240, 2245, 2300, 2305, 2310, 2320	09/12/12	AMEND: 961 REPEAL: 933
07/26/12	AMEND: 18836	09/10/12	ADOPT: 4116, 4117, 4118, 4119
07/12/12	AMEND: 790, 851.20, 851.21, 851.22, 851.25, 851.26, 851.27, 851.27.1, 851.28, 851.29, 851.30, 851.31, 851.32	09/07/12	AMEND: 4
07/09/12	ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8		
07/02/12	ADOPT: 602		
06/28/12	ADOPT: 17944.1, 17945.1, 17945.4, 17946, 17946.5, 17948.1, 17948.2 AMEND: 17943, 17944, 17946(a)-(h) renumber as 17945.2, 17946(i) renumber as 17945.3, 17946.5 renumber as 17945.5, 17947, 17948, 17948.5, 17949		

08/30/12	ADOPT: 2557, 2557.1, 2557.2, 2557.3, 2595, 2595.1, 2595.2, 2595.3	66273.91, 66273.100, 66273.101
08/29/12	ADOPT: 4146, 4148, 4149, 4149.1	AMEND: 66261.4, 66273.6, 66273.7, 66273.9, 66273.70, 66273.72, 66273.73, 66273.74, 66273.75
08/20/12	ADOPT: 1333, 1333.1, 1333.2, 1333.3	09/06/12 ADOPT: 66269.2
07/23/12	ADOPT: 1397.2 AMEND: 1380.4	08/20/12 AMEND: 87224
07/17/12	ADOPT: 1399.23, 1399.24 AMEND: 1398.4	08/13/12 AMEND: 100104, 100106, 100106.1, 100113, 100115, 100119, 100120, 100121, 100123, 100127
07/10/12	ADOPT: 3394.25, 3394.26, 3394.27	07/12/12 AMEND: 66263.18, 66263.41, 66263.43, 66263.44, 66263.45, 66263.46
06/18/12	ADOPT: 1727.2 AMEND: 1728	07/12/12 AMEND: 66268.40, 66268.48
06/18/12	AMEND: 443	07/09/12 AMEND: 4416
06/14/12	ADOPT: 302.5	07/03/12 AMEND: 51516.1
05/25/12	ADOPT: 1399.364, 1399.375, 1399.377, 1399.381, 1399.384 AMEND: 1399.301, 1399.302, 1399.303, 1399.320, 1399.330, 1399.352.7, 1399.353, 1399.360, 1399.370, 1399.374, 1399.376 (renumbered to 1399.382), 1399.380, 1399.382 (renumbered to 1399.383), 1399.383 (renumbered to 1399.385), 1399.384 (renumbered to 1399.378), 1399.385 (renumbered to 1399.379), 1399.395 REPEAL: 1399.340, 1399.381, 1399.387, 1399.388, 1399.389, 1399.390, 1399.391	06/28/12 AMEND: 91477
		06/21/12 AMEND: 50195, 50197, 50256, 50258, 50258.1, 50262, 50268, 50815, 51000.53
		06/12/12 AMEND: 66261.32
		05/24/12 AMEND: 90417
		Title 23
		09/06/12 ADOPT: 3959.5
		08/08/12 ADOPT: 3969.2
		07/30/12 ADOPT: 2923
		07/11/12 ADOPT: 597, 597.1, 597.2, 597.3, 597.4
		07/05/12 AMEND: 570, 571, 572, 573, 574, 575, 576
		Title 25
		10/10/12 AMEND: 8201, 8205, 8212
		08/13/12 ADOPT: 7097 AMEND: 7054, 7056, 7058, 7060, 7062, 7062.1, 7072, 7076, 7078, 7104 REPEAL: 7064, 7066, 7074, 7078.1, 7078.2, 7078.3, 7078.4, 7078.5, 7078.6, 7078.7
		06/07/12 ADOPT: 4326, 4328 AMEND: 4004, 4200, 4204, 4208
		Title 27
		10/10/12 AMEND: 25707
		09/20/12 AMEND: 25705(b)
		09/12/12 AMEND: 25403(a), 25603.3(a)
		07/12/12 AMEND: 25305, 25701, 25705, 25801
		06/18/12 AMEND: 25705
		Title 28
		09/06/12 ADOPT: 1300.74.73
		Title MPP
		06/25/12 AMEND: 40-105.4(g)(1), 44-111.23, 44-113.2, 44-133.54(QR), 44-315.39(QR), 89-201.513
		06/25/12 AMEND: 41-440, 42-716, 42-717, 44-207
		06/25/12 AMEND: 40-107, 42-301, 42-302, 42-431, 42-712, 42-713, 42-716, 42-717, 42-721, 44-133, 44-307, 44-316, 82-833
Title 17		
10/03/12	AMEND: 95201, 95202, 95203, 95204, 95205	
09/04/12	ADOPT: 30305.1, 30308.1, 30311.1	
08/30/12	AMEND: 95802, 95812, 95814, 95830, 95831, 95832, 95833, 95834, 95856, 95870, 95892, 95910, 95911, 95912, 95913, 95914, 95920, 95021	
08/29/12	AMEND: 100800	
08/15/12	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	
07/26/12	AMEND: 94006	
06/15/12	AMEND: 6508	
Title 18		
08/07/12	AMEND: 1618	
07/27/12	AMEND: 1684	
07/10/12	AMEND: 1205, 1212, 1271	
07/10/12	AMEND: 1105, 1120, 1132, 1161	
07/10/12	AMEND: 1435, 1436	
07/10/12	AMEND: 25128.5	
Title 21		
08/28/12	AMEND: 6640, 6680	
Title 22		
10/15/12	ADOPT: 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.90,	

