



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 2. SECRETARY OF STATE

NOTICE IS HEREBY GIVEN that the Secretary of State is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Secretary of State at its office not later than 5:00 p.m. on December 20, 2013.

A public hearing is scheduled for 2:00 p.m. on December 13, 2013, at 1500 11th Street — Auditorium, Sacramento, California, 95814. Following the public hearing and the written comment period, the Secretary of State, 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

Section 19205 of the California Elections Code authorizes the Secretary of State to establish the specifications for and regulations governing voting machines, voting devices, vote tabulating devices, and any software used for each, including the programs and procedures for vote tabulating and testing. The proposed regulations would implement, interpret and make specific Section 19205 of the California Elections Code.

INFORMATIVE DIGEST

A. Informative Digest

Senate Bill 360, Chapter 602, Statutes 2013, amended California Elections Code Division 19 regarding the certification of voting systems.

Prior to Senate Bill 360, all direct recording electronic voting systems had to receive federal qualification before the Secretary of State could approve such system. Senate Bill 360 removes the requirement to receive federal qualification and places the certification decision at the sole discretion of the Secretary of State. Further, Senate Bill 360 reiterates that the Secretary of State adopt and publish voting system standards and regulations and study the performance of the voting systems in use in the state. Until the voting system standards and regulations have been adopted, Senate Bill 360 states that the Voluntary Voting System Guidelines Draft Version 1.1, as submitted to the United States Election Assistance Commission on August 31, 2012, shall be used as state standards to the extent that they do not conflict with California Elections Code.

Accordingly, the Secretary of State proposes to add Chapter 6.1, sections 20700 through 20707 of Division 7 of Title 2 of the California Code of Regulations. These sections set forth the procedures for submitting a voting system for certification and the standards for which the voting system being submitted must meet prior to receiving Secretary of State certification.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The proposed addition of Chapter 6.1, sections 20700 through 20707 of Division 7 of Title 2 of the California Code of Regulations is meant to:

1. Create standards that meet or exceed federal voluntary voting system guidelines set forth by the United States Election Assistance Commission or its successor entity.
2. Create a voting system certification that will provide assurance that all voting systems certified for use in California meet, at a minimum, the following requirements:
 - a) The machine or device and its software shall be suitable for the purpose for which it is intended.
 - b) The system shall preserve the secrecy of the ballot.
 - c) The system shall be safe from fraud or manipulation.
 - d) The system shall be accessible to voters with disabilities pursuant to California Elections Code section 19242 and applicable federal laws.
 - e) The system shall be accessible to voters who require assistance in a language other than English if the language is one in which a ballot or ballot materials are required to be made available to voters pursuant to Section 14201 and applicable federal laws.

C. Consistency and Compatibility with Existing State Regulations

The Secretary of State is the only office authorized by statute to certify voting systems for use in California. Accordingly, a review for any comparable regulations established that these are the only regulations dealing with voting system review, testing and certification. Therefore, the proposed regulations are not inconsistent or incompatible with existing state regulations.

D. Documents Incorporated by Reference:

Voting System Performance Standards (October 2013).

E. Documents Relied Upon in Preparing the Regulations:

Economic Impact Analysis/Assessment.

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

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: No.

Cost to Any Local Agency or School District for Which Government Code Sections 17500 — 17630 Require Reimbursement: No.

Business Impact: None.

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

Benefits of the Regulation to the health and welfare of California residents, worker safety, and the state's environment: None.

Cost Impact on Representative Private Person or Business: None. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

Effect on Small Business: None. These regulations establish the specifications for voting machines, voting devices, vote tabulating devices, and any software used for each, including the programs and procedures for vote tabulating and testing. These standards ensure the accuracy, security and reliability of voting systems. These standards are intended for use by the manufacturers of voting systems, county election officials, and the interested public.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: No.

Economic Impact Assessment/Analysis Summary Comments: This proposed regulation is not a "major regulation" therefore there are no economic impact assessment comments from the Department of Finance or a response. These regulations establish the specifications for voting machines, voting devices, vote tabulating devices, and any software used for each, including the programs and procedures for vote tabulating and testing. These standards are intended for use by the manufacturers of voting systems, county election officials, and the interested public. By adding the Voting System Certification regulations, an applicant seeking voting system certification will have a more defined and clear path to receiving such certification of the applicant's voting system for use in California. But above all, these standards ensure the accuracy, security and reliability of voting systems.

CONSIDERATION OF ALTERNATIVES

The Secretary of State must determine that no reasonable alternative is 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.

Any interested person may present alternatives to the regulations or statements or arguments relevant to any of the above determinations.

AVAILABILITY AND LOCATION OF INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL, THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

The Secretary of State has prepared an Initial Statement of Reasons setting forth the rationale for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the Secretary of State website.

Copies of the express language of the proposed regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the Secretary of State contact or on the website listed below.

A Final Statement of Reasons will be created after the closing of the public comment period. You may obtain a copy of the Final Statement of Reasons once it has been prepared, from the contact person named below or by accessing the website listed below.

December 13, 2013
8:30 a.m.
Commission on Teacher Credentialing
1900 Capitol Avenue
Sacramento, California 95811

CONTACT PERSON

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

Ryan Macias
Secretary of State
1500 11th Street, OVSTA—6th Floor
Sacramento, CA 95814
(916) 653-7244 (telephone)
(916) 653-4620 (fax)
Ryan.Macias@sos.ca.gov

The backup contact person is:

Lowell Finley
Secretary of State
1500 11th St., 6th Floor
Sacramento, CA 95814
(916) 651-7837
Lowell.Finley@sos.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.sos.ca.gov.

TITLE 5. COMMISSION ON TEACHER CREDENTIALING

Division VIII of Title 5 of the California Code of Regulations

Proposed Addition to Title 5 of the California Code of Regulations Pertaining to Cost Recovery Fees for Accreditation Activities

The Commission on Teacher Credentialing (Commission) proposes to take the regulatory action described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing on the proposed actions will be held:

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail relevant to the proposed action. The written comment period closes at 5:00 p.m. on December 9, 2013. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322-0048; write to the Commission on Teacher Credentialing, attn. Tammy A. Duggan, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email at tduggan@ctc.ca.gov.

Any written comments received 15 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

AUTHORITY AND REFERENCE

Education Code (EC) section 44225 authorizes the Commission to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific EC section 44374.5 that authorizes the Commission to implement a cost recovery plan for specified accreditation activities.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations

Assembly Bill (AB) 86 (Chap. 48, Stats. 2013) added EC section 44374.5 and authorizes the Commission to develop and implement a cost recovery plan for specified accreditation activities. The purpose of the proposed cost recovery fees are to implement a cost sharing plan for the specified accreditation activities.

AB 110 (Chap. 20, Stats. 2013) assumes up to \$200,000 in funds [reference 6360-001-0407(8)] from the implementation of a cost recovery plan for the accreditation activities specified below. "Institution" as used in this section refers to an agency that is authorized to seek initial institutional approval in order to submit a professional preparation program for approval and accreditation pursuant to EC section 44373.

Reviewing Initial or New Educator Preparation Programs [EC §44374.5(a)]

Initial Institutional Approval

Initial Institutional Approval is the process that must be completed by an institution that has not previously been authorized by the Commission to offer educator programs in California. This is a lengthy process that requires review of Commission-adopted preconditions, program standards, and common standards. Additionally, because the institution is new to the process, multiple reviews and resubmissions are often required. These approvals are less frequent in occurrence than other document reviews; however, they require considerable time for reviewers.

Initial Program Review

Initial Program Reviews (IPR) are initiated in two ways: 1) an approved institution intends to offer a new program and submits a program proposal for review; and 2) the Commission revises program standards to such a significant degree that institutions are required to rewrite a program proposal and submit it for IPR. Staff will include a discussion of costs when presenting proposed program standards revisions to the Commission for approval at a regularly scheduled public meeting. The Commission will determine, after considering all comments, objections, and recommendations, whether programs will be required to submit the new program for IPR and bear the associated costs or if submission of a no-fee transition plan will suffice.

Accreditation Activities in Excess of the Regularly Scheduled Data Reports, Program Assessments, and Accreditation Site Visits [EC §44374.5(b)]

Focused Site Visit

The Commission's accreditation system allows the Committee on Accreditation (COA), as defined in EC section 44373, to call for a focused site visit when the institution is not complying with the accreditation system activities or if there are concerns expressed about a program or institution.

Late Document Reviews

Institutions are required to submit Biennial Report documents to the Commission that include two years of assessment data being used to ensure that candidates are developing, and completers have acquired, the appropriate skills and knowledge to prepare them to be professional educators. Institutions are required to submit Program Assessment documents to the Commission in Year Four of the accreditation cycle to assist the institution in preparing for the site visit in Year Six as well as providing information to the site visit team. The Commission incurs additional costs when reviewing documents that are submitted past an established due date, including costs associated with rescheduling re-

views, recruiting additional reviewers, and holding additional review events.

Program Assessments Requiring More Than Three Reviews

Program assessment occurs in Year Four of the accreditation cycle. This is a review of all programs offered by an institution. Program assessment is used to assist the institution in preparing for the site visit in Year Six as well as providing information to the site visit team.

Two Board of Institutional Review (BIR) members review the program assessment documents in a protected environment facilitated by Commission staff to determine if the programs are preliminarily aligned with the program standards. If the reviewers cannot determine that the response is aligned to the standards, the institution resubmits documents with additional information. More than three reviews of a program assessment are considered extraordinary and are beyond the normal accreditation activities. Program assessment documents that require numerous reviews require redirection of staff time as well as travel costs related to the reconvening of BIR members to perform the additional reviews.

Full Program Review During Site Visit

Program assessment documents are due to the Commission two years prior to the scheduled site visit. When an institution does not complete the program assessment process six months prior to the site visit, and when completion of that activity is due to the fact that the documents were significantly late, the document will not be read as a program assessment document, but will be reviewed as part of the site visit responsibilities. The costs for two additional BIR members to perform a full review of the document during the site visit will be the responsibility of the institution upon approval of the proposed regulations.

Site Revisit

The purpose of a site revisit is to allow an institution that received stipulations from the COA following an accreditation site visit the opportunity to demonstrate to a review team that it has modified its practices or corrected its deficiencies. Site revisits generally require a two-day visit of a smaller team within one year of the original site visit. The site revisit team always includes a team lead, which in most cases is the same team lead as the original visit, and a Commission consultant. The number of reviewers depends upon the number and complexity of issues identified, but generally includes at least one reviewer in addition to the team lead.

Reports Addressing Stipulations

An institution granted "Accreditation with Stipulations" by the COA must complete a seventh year report as part of the accreditation review process. The report

should address the action taken by the institution to address any stipulations as well as the standards determined by the review team to be “not met” or “met with concerns.” At the time “Accreditation with Stipulations” is granted, the COA will indicate whether the process for removal of the stipulations requires a site revisit.

If no site revisit is required, the consultant, and in some cases the team lead, will review the responses provided in the seventh year report provided by the institution. The consultant and, if appropriate, the team lead will prepare a report with recommendations for COA consideration in determining whether the stipulations can be removed.

If a site revisit is required by the COA, the seventh year report will be provided to the review team to help with the assessment of the institution’s progress toward addressing the stipulations. Upon the conclusion of the site revisit, a report with recommendations will be prepared for COA consideration in determining whether the stipulations can be removed.

The review of reports addressing stipulations, with or without a site revisit, requires redirection of staff time.

Summary of Proposed Cost Recovery Fees

Beyond Standard Accreditation Cycle Activities Education Code §44374.5	Cost Recovery
Initial Institutional Approval	\$2,000
Initial Program Review 12 or more standards	\$2,000
Initial Program Review 6–11 standards	\$1,500
Initial Program Review fewer than 6 standards	\$1,000
Beyond Regularly Scheduled Accreditation Activities	Cost Recovery
Focused Site Visit	\$1,000 per individual attending visit
Late Document Reviews	\$500 per program
Program Assessment Requiring More than 3 Reviews	\$1,000
Full Program Review during Site Visit as a result of not completing program assessment process	\$3,000 per program
Site Revisit	\$1,000 per individual attending visit
Reports Addressing Stipulations (no revisit required)	\$500
Reports Addressing Stipulation (revisit required)	\$1,000

Objectives and Anticipated Benefits of the Proposed Regulations

The objectives of the proposed regulations amendments are to establish fees that will allow the Commission to recover costs incurred for initial institutional and new program review and accreditation activities in excess of the regularly scheduled data reports, program assessments, and accreditation site visits.

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by providing the monetary means to perform its statutorily-mandated accreditation duties, thereby ensuring high quality educator preparation for the instruction of California public school pupils.

The proposed regulations will promote fairness and prevent discrimination by specifying that the cost recovery fees apply to all institutions offering Commission-approved programs, regardless of agency type. The proposed regulations will also increase openness and transparency in government by clarifying the cost recovery fees associated with initial institutional and new program review and accreditation activities in excess of the regularly scheduled data reports, program assessments, and accreditation site visits. The Commission does not anticipate that the proposed regulations will result in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The Commission has determined that the proposed regulation amendments are not inconsistent or incompatible with existing regulations. There are no other 5 CCR sections that specify cost recovery fees for accreditation activities associated with Commission-approved programs.

DOCUMENTS INCORPORATED BY REFERENCE

Accreditation Handbook Chapter Three, Institutional and Program Approval (rev. 2012): <http://www.ctc.ca.gov/educator-prep/accred-handbook/AH-Chapter-03.pdf>

Accreditation Handbook Chapter Four, The Accreditation Cycle (rev. 2012): <http://www.ctc.ca.gov/educator-prep/accred-handbook/AH-Chapter-04.pdf>

Accreditation Handbook Chapter Five, Biennial Reports (rev. 2012): <http://www.ctc.ca.gov/educator-prep/accred-handbook/AH-Chapter-05.pdf>

Accreditation Handbook Chapter Six, Program Assessment (rev. 2012): <http://www.ctc.ca.gov/educator-prep/accred-handbook/AH-Chapter-06.pdf>

Accreditation Handbook Chapter Eight, Accreditation Decisions: Options and Implications (rev. 2012): <http://www.ctc.ca.gov/educator-prep/accred-handbook/AH-Chapter-08.pdf>

Accreditation Handbook Chapter Nine, Activities during the Seventh Year of the Accreditation Cycle (rev. 2012): <http://www.ctc.ca.gov/educator-prep/accred-handbook/AH-Chapter-09.pdf>

Accreditation Handbook Chapter Eleven, Board of Institutional Review Member Skills and Competencies (rev. 2012): <http://www.ctc.ca.gov/educator-prep/accred-handbook/AH-Chapter-11.pdf>

Accreditation Handbook Chapter Fifteen, The Accreditation Revisit (rev. 2012): <http://www.ctc.ca.gov/educator-prep/accred-handbook/AH-Chapter-15.pdf>

DOCUMENTS RELIED UPON IN PREPARING REGULATIONS

August 2013 Commission Agenda Item 3D: <http://www.ctc.ca.gov/commission/agendas/2013-08/2013-08-3D.pdf>

September 2013 Commission Agenda Item 4A: <http://www.ctc.ca.gov/commission/agendas/2013-09/2013-09-4A.pdf>

DISCLOSURES REGARDING THE PROPOSED ACTIONS

The Commission has made the following initial determinations:

Mandate to local agencies or school districts: None.

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

Cost or savings to any state agency: Costs of \$0 to approximately \$7,000 every seven-year accreditation cycle per institution with document review or extraordinary accreditation activities.

The Commission implements a seven-year accreditation cycle that includes three major components: 1) program assessment, 2) biennial reports, and 3) site visits. In addition, Initial Institutional Approval and Initial Program Approval are accreditation functions associated with new programs and new institutions. Costs are primarily incurred for components of the accreditation system that require the use of experts from the field to determine if the documentation provided by institutions regarding the quality of their program's operations, faculty, and services for candidates are aligned to the requirements of the Commission's adopted standards. Expenses include reimbursement for the travel of

volunteers and staff who review documents and participate in approximately 40 educator preparation program and institution site visits per year. This results in a projected outlay of \$415,000 for site visits, including pre-visits and revisits, in 2013-14 and \$271,000 for document review activities. The 2013-14 Budget Act authorizes the Commission to recover up to \$200,000 of these overall costs for activities other than regularly scheduled reviews.

Costs associated with accreditation activities vary depending on the scope of review required and the number of reviewers needed to accomplish the activity. There are currently 23 California State Universities (CSU) offering approximately 12 programs per entity (276 CSU programs) and 8 Universities of California (UC) offering approximately 7 programs per entity (56 UC programs) for a total of approximately 332 programs. There are also currently 59 private institutions of higher education offering approximately 8 programs per entity (472 programs) and 169 school districts and county offices of education offering approximately two programs per entity for a total of approximately 338 programs.

Provided below are estimates of the total yearly cost recovery fees by each institution type:

CSUs: 276 programs/1142 total programs = 24% x \$200,000 = \$48,000

UCs: 56 programs/1142 total programs = 5% x \$200,000 = \$10,000

Private Institutions: 472 programs/1142 total programs = 41% x \$200,000 = \$82,000

School Districts and County Offices: 338 programs/1142 total programs = 30% x \$200,000 = \$60,000

CSUs, UCs, private institutions, school districts, and county offices of education are not required by statute or regulations to offer Commission-approved programs. Further, the cost recovery fees are not intended to be punitive in nature. The fees are proposed as a means for the Commission to recover incurred costs associated with initial institutional or new program review and extraordinary accreditation activities as provided in EC section 44374.5.

Program sponsors may offset the costs associated with initial program review by providing Board of Institutional Review members [reference 5 CCR section 80692(a)(2)(D)]. In addition, program sponsors may avoid the proposed cost recovery fees associated with the extraordinary accreditation activities by successfully completing all scheduled accreditation activities on time. The Commission will not need to recover costs if no costs are incurred.

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

Significant effect on housing costs: None.

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

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

Cost impacts on a representative private person or business: There are currently 59 private colleges and universities offering approximately eight programs per institution for a total of approximately 472 programs. The Commission anticipates yearly costs of \$82,000 at a rate of \$0 to approximately \$7,000 every seven-year accreditation cycle per private college or university. Refer to the *Cost or savings to any state agency* section on page 5 for additional information.

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

Statement of the Results of the Economic Impact Assessment [Govt. Code §11346.5(a)(10)]: The Commission concludes that it is 1) unlikely that the proposal will create any jobs within the State of California; 2) unlikely that the proposal will eliminate any jobs within the State of California; 3) unlikely that the proposal will create any new businesses with the State of California; 4) unlikely that the proposal will eliminate any existing businesses within the State of California; and 5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California.

Benefits of the Proposed Action: The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by providing the monetary means to perform its statutorily-mandated accreditation duties, thereby ensuring high quality educator preparation for the instruction of California public school pupils.

Effect on small businesses: The proposed regulations will not have a significant adverse economic impact upon business. The proposed regulations apply only to institutions offering Commission-approved and accredited educator programs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission 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 as and less burden-

some 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 Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearing.

CONTACT PERSON/FURTHER INFORMATION

General or substantive inquiries concerning the proposed action may be directed to Tammy A. Duggan by telephone at (916) 323-5354 or Tammy A. Duggan, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed to Martha Zavala at (916) 323-5080 or at the address mentioned in the previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's website at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of the Notice of Proposed Rulemaking, the proposed text of regulations, the Initial Statement of Reasons, an economic impact assessment/analysis contained in the Initial Statement of Reasons, Commission agenda items 3D from the August 2013 meeting and 4A from the September 2013 meeting. Copies may be obtained by contacting Tammy Duggan at the address or telephone number provided above.

MODIFICATION OF PROPOSED ACTION

If the Commission proposes to modify the actions hereby proposed, the modifications (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rule-

making package, after the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Tammy A. Duggan at (916) 323-5354.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Commission’s website at www.ctc.ca.gov.

TITLE 8. DIVISION OF LABOR STANDARDS ENFORCEMENT

Subject Matter of Regulations: Farm Labor Contractors — Application for Farm Labor Contractor License; Educational Classes for Farm Labor Contractors; Duties of Contractors; and Farmworker Remedial Account

TITLE 8, CALIFORNIA CODE OF REGULATIONS Sections 13660 et seq.

NOTICE IS HEREBY GIVEN that the Labor Commissioner, Chief of the Division of Labor Standards Enforcement, Department of Industrial Relations pursuant to the authority vested in her by Labor Code sections 59 and 1699 proposes to amend sections 13660, 13661, and 13662 and to adopt sections 13660.1, 13660.2, 13663, 13663.5, 13664 within proposed Article 1; adopt 13665 and 13665.5 within proposed Article 2; adopt 13666, 13666.1 and 13666.2 within proposed Article 3; adopt 13667, 13667.1, and 13667.4 within proposed Article 4 of Division 1, Chapter 6, Subchapter 9, of Title 8, California Code of Regulations, relating to the Application for Farm Labor Contractor License; Educational Classes for Farm Labor Contractors; Duties of Contractors; and Farmworker Remedial Account.

PROPOSED REGULATORY ACTION

The Division of Labor Standards Enforcement (DLSE), proposes to adopt Articles 1-4 of Division 1, Chapter 6, Subchapter 9, of Title 8, California Code of Regulations, by amending and or adopting regulations commencing with section 13660.

I. Add new article: Article 1. Application for Farm Labor Contractor License

1. Amend section 13660 Application for New License
2. Adopt section 13660.1 Character, Competency and Responsibility
3. Adopt section 13660.2 Date a Denied Applicant May Reapply for Licensure
4. Amend section 13661 Application for Renewal of License
5. Amend section 13662 Written Examinations
6. Adopt section 13663 Schedule for Processing Applications
7. Adopt section 13663.5 Issuance of Replacement License
8. Adopt section 13664 Surety Bonds; Establishing Annual Payroll
9. Adopt section 13664.1 Payment of Wage Claims Against Bonds

II. Add new article: Article 2. Educational Classes for Farm Labor

1. Adopt section 13665 Education Program Approval; Course Criteria; List of Approved Courses
2. Adopt section 13665.5 Records of Education

III. Add new article: Article 3. Duties of Contractors

1. Adopt section 13666 Posting Rate of Compensation
2. Adopt section 13666.1 Identification Signage at Worksite
3. Adopt section 13666.2 Worker Safety Training of Crew Leaders and Forepersons

IV. Add new article: Article 4. Farmworker Remedial Account

1. Adopt section 13667 Procedure to Obtain Damages from the Farmworker Remedial Account
2. Adopt section 13667.1 Hearing
3. Adopt section 13667.4 Payment of Wage Claims Against the Farmworker Remedial Account

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, either orally or in writing, with respect to

the subjects noted above. The hearing will be held at the following time and place:

Date: December 9, 2013

Time: 10:00 a.m. to 5:00 p.m., or conclusion of business

**Place: Elihu Harris State Building
Room 1 Meeting Room, 2nd Floor
1515 Clay Street
Oakland, CA 94612**

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

Please contact the Statewide Disability Accommodation Coordinator, Kendra Frazier, at 1-415-703-4810, or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance. If Ms. Frazier is unavailable you can contact Leticia Montealegre at 1-415-703-4810.

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

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Labor Standards Enforcement. The written comment period closes at **5:00 p.m., on December 9, 2013**. The DLSE will consider only comments received at the division by that time. Equal weight will be accorded to comments presented at the hearing and to other written comments received by 5:00 p.m. on that date by the Division.

Filed in Register 10/25/2013: written comment period closes at **5:00 p.m., on December 9, 2013**.

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

Jennifer Stevens,
Legislative Analyst and Regulations Coordinator
Department of Industrial Relations
Division of Labor Standards Enforcement, Legal Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (916) 263-2920. Written comments may also be sent electronically (via e-mail) using the following e-mail address: DLSERegulations@dir.ca.gov.

Unless submitted prior to or at the public hearing, Ms. Stevens must receive all written comments no later than **December 9, 2013**.

AUTHORITY AND REFERENCE

The DLSE is undertaking this regulatory action pursuant to Labor Code sections 59 and 1699.

Reference is to Labor Code sections 55, 59, 61, 273, 1682, 1683, 1684, 1685, 1688, 1689, 1695, 1695.6, 1695.7, 1696, 1696.3, 1696.4, 3700, 3701, 3701.7; Health & Saf. Code sections 17960, 17965, 34240, 34290; Vehicle Code section 12519; Bus. & Prof. Code sections 481, 486.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Existing law establishes a Farm Labor Contractors licensing requirement for persons engaged in procurement of labor to perform agricultural work. The Farm Labor Contractors Licensing program is administered by the Labor Commissioner, Chief of the Division of Labor Standards Enforcement (DLSE) with the recognized intent of protecting farm workers. Section 1683 of Chapter 3 (Farm Labor Contractors) of Part 6 (Licensing) in Division 2 (Employment Regulation and Supervision) of the Labor Code requires farm labor contractors to apply for, and receive, a Farm Labor Contractors license issued by the Labor Commissioner prior to engaging in activities related to procuring labor to perform agricultural work.

Existing regulations regarding farm labor contractors licensed by the agency only pertain to the agency's disbursement of funds from the Farmworker Remedial Account for workers who have been damaged by a farm labor contractor's failure to pay wages to workers after a determination regarding the validity of a claim (8 CCR 13660-13662). In recent years, the regulated public (licensees and persons interested in obtaining a license) and worker groups have increasingly requested from

the DLSE information regarding the standards, criteria, and processes for issuance of licenses used by DLSE in carrying out the statutory standard that an applicant provide information regarding character, competency, and responsibility.

The proposed amendments to existing regulations along with proposed new regulations to be adopted standardizes criteria for administering statutory licensing requirements used to determine fitness of applicants and licensees, surety bonds, written examinations, educational classes, continuing duties of licensees, and disbursing funds to workers and their representatives from the Farmworker Remedial Account administered by the agency.

The DLSE now proposes to amend and adopt administrative regulations governing licensing requirements used to determine fitness of Farm Labor Contractor applicants and licensees, surety bonds, written examinations, educational classes, continuing duties of licensees, and disbursing funds to workers and their representatives from the Farmworker Remedial Account administered by the agency. These regulations implement, interpret, and make specific the statutory requirements of Chapter 3 (Farm Labor Contractors) of Part 6 (Licensing) in Division 2 (Employment Regulation and Supervision) of the Labor Code as follows:

Article 1: Application for Farm Labor Contractor License

Proposed new Article 1 contains nine (9) sections which provide general requirements for application and issuance of farm labor contractor licenses and implementation requirements or make more specific the procedures specified in Chapter 3 of Part 6 of Division 2 of the Labor Code.

Section 13660: Application for New License

This section sets forth the process for obtaining a new Farm Labor Contractor (FLC) license pursuant to Labor Code 1682 et seq and includes as follows:

- Written application content
- Fee amounts
- Documentation to be furnished to the Labor Commissioner as part of the FLC license application package
- Provides for supporting documentation as proof of statements made in response to application questions and to complete investigation into the character, competency, and responsibility of the applicant to be furnished to the Labor Commissioner upon request.

13660 (a), (b), and (c) are amended to delete the definition of “Damages” which are to be replaced with the above-described application requirements for obtaining a new FLC license.

Section 13660.1: Character, Competency, and Responsibility

This section provides parameters for “character, competency, and responsibility” stated in Labor Code 1684(a)(1)(A) which the Labor Commissioner must determine prior to issuing a farm labor contractor license based upon review of the application information.

This section also specifies conditions for rehabilitation of an applicant following a period of time after completion of any ordered incarceration or penalty under a crime or act, as specified.

This section also specifies that no contractor license shall be issued to any applicant who has an unsatisfied final judgment that would be covered by the surety bond against the farm labor contractor.

Section 13660.2: Date a Denied Applicant May Reapply for Licensure

This section specifies the period of time which must lapse before a new application can be submitted to the Labor Commissioner following denial of an application due to a determination that the person lacked the character, competence, or responsibility to be licensed.

Section 13661: Application for Renewal of License

This section sets forth the procedure for licensees to renew their licenses prior to expiration of their existing license. Specifically, this section describes the renewal process and requirements as follows:

- The renewal application form which requests updated or changed information
- Describes the specific information and documentation required to renew an existing FLC license for any licensee who has
 - no outstanding citation charging violation of a statute or regulation related to working conditions, unpaid wages or unpaid penalties
 - filed all required tax returns
 - not been convicted of a crime while licensed as a farm labor contractor, misdemeanor or felony, related to working conditions.

Section 13662: Written Examinations

This section sets forth the requirement that an applicant take a written examination required under Labor Code 1684(a)(5) demonstrating knowledge of the current laws and regulations concerning farm labor contractors. The section specifies who must take the examination based upon the business entity form and codifies the current practices of the agency for ensuring the identity of the appropriate person to take the written examination.

Section 13663: Schedule for Processing Applications

This section sets forth the schedule for processing license applications (within 60 days of receiving an ap-

plication) and time periods for submitting additional information following a written notice from the agency requesting additional information from the applicant. This section also provides that the Labor Commissioner may issue a temporary license authorized under Labor Code 1684.3 only when the agency is unable to complete its determination (within 60 days of receiving an application) and the delay is not the fault of the applicant.

Section 13663.5: Issuance of Replacement License

This section sets forth the procedure for requesting replacement licenses, which may be requested by a licensee to replace a license which has been lost, destroyed or mutilated and provides for a replacement fee (\$25) which will pay for personnel time and materials for issuing a replacement license.

Section 13664: Surety Bonds; Establishing Annual Payroll

This section sets forth the surety bond requirement specified in Labor Code 1684(a)(3) and provides criteria for proof of annual payroll, continuity of the protections afforded by the bond, and length of time the bond must be retained after the employer ceases business. This section implements the statutory requirement for determining the amount of a surety bond and provides for an alternative undertaking authorized under Code of Civil Procedure Section 995.010 et seq.

Section 13664.1: Payment of Wage Claims Against Bonds

This section sets forth the procedure that an employee or representative of the employee must follow in their first attempt to proceed against the employer’s surety bond to recover amounts owed for wages, interest, or damages if awarded by the Labor Commissioner. This section provides for recovery against the bond or undertaking which will provide a prompt recovery for workers from a secured source (bond or undertaking) prior to seeking recovery from the Farmworker Remedial Account administered by DLSE. The procedures set forth in this section seek to avoid or minimize unnecessary depletion of account funds and discourage simultaneous recoveries from the two sources.

Article 2: Educational Classes for Farm Labor

Proposed new Article 2 contains two (2) sections which establish general requirements for educational classes for farm labor contractor applicants and licensees required under Labor Code 1684(a)(5).

Section 13665: Education Program Approval; Course Criteria; List of Approved Courses

This section sets forth the procedures by which a person, nonprofit organization, or educational institution may be evaluated and approved by the agency to provide educational programs to farm labor contractor ap-

plicants and licensees. This section specifies the contents of a proposed program and qualifications for each proposed instructor, and criteria used by the agency to determine approval of the educational provider and sets forth the length of time that the DLSE may, within 30 days of receipt of a request and at his or her discretion, approve an educational program for a one-year time period. This section also specifies that an approved educational provider must report to the agency any changes in the program or instructor(s), and changes in the dates such programs are offered by the educational provider. This section implements the statutory requirement for educational classes (Labor Code 1684(a)(5)) and establishes standard requirements for educational class providers which will be reviewed and approved by the agency.

Section 13665.5: Records of Education

This section sets forth the length of time that educational providers must maintain a record of administered classes (three (3) years from the date of completion) and specifies the information which must be kept and shall be submitted to DLSE within 30 days of completion of each program. The section provides for a certificate of completion to be issued by the educational provider. This section provides for effective administration of the educational classes (initial and continuing education) for licensees.

Article 3: Duties of Contractors

Proposed Article 3 contains three (3) new sections specifying the on-going duties of licensed contractors. The sections in this article implement Labor Code 1695(a)(7) & (a)(9), and establish contractor identification signage requirements at worksites.

Section 13666: Posting Rate of Compensation

This section sets forth the requirement that a licensee must post the rate(s) of compensation to be paid. This section codifies the statutory requirement under Labor Code 1695(a)(7) that rate posting be “displayed prominently” and specifies the minimum size of the posting and font size.

Section 13666.1: Identification Signage at Worksite

This section sets forth the specifications for contractor identification signage, including information to be included on signage required at worksites where contractors are operating work crews. Recent legislation (AB 1675, Chapter 857 of Stat. 2012) provides for enforcement of the licensing requirement through assessments of civil penalties against unlicensed contractors. The requirements set forth in this section will allow for more effective contractor identification and contact information pertaining to the worksite where workers are employed by requiring portable signage placed near the entrance and clearly visible from the access road where workers enter the site for the day, and an additional por-

table sign in reasonable proximity to where each crew is working.

This section provides that temporary signage at the entrance of a work site must contain, at a minimum:

- The name of the licensee.
- The license number of the licensee in the top-half portion of the sign.
- The name and working phone number of the field supervisor in charge of the crew.

The section also provides for an additional portable sign in proximity where a crew is working which must contain:

- The name of the licensee.
- The name and working phone number of the field supervisor in charge of the crew.

The identification signage requirements at worksites will aid enforcement efforts of inspectors and investigators by providing more effective visibility of contractor operations, thus enhancing accountability of employer contractors who employ farm laborers at regularly changing worksites.

These requirements will provide for more readily visible and important basic identifying information regarding operations which are subject to farm labor contractor requirements.

Section 13666.2: Worker Safety Training of Crew Leaders and Forepersons

This section establishes specific requirements for a licensee to provide periodic training to supervisors, forepersons, and crew leaders regarding applicable laws and regulations as pertains to general work safety, and specifically implementing programs and practices for heat illness injury prevention and response and pesticide safety. This section specifies that supervisor training shall be conducted at least once during each quarter of a calendar year that the licensee operates and requires that a licensee maintain records of all training and information provided to each supervisor. This section specifies information to be included in a record of training, and that the records must be available, upon request, to the Labor Commissioner for at least two years.

Information to be included in the record of training includes:

- The date(s) on which the training and information were provided.
- The identity of the crew leaders, forepersons or other supervisors to whom the training and information was provided.

- A description of the training and information provided and, if written materials were provided, a copy of such materials.
- A certification by the licensee that the foregoing is true and complete.

This section implements and makes more specific the requirement in Labor Code 1695(a)(9) that a licensee provide information and training to supervisors, crew leaders, forepersons, on laws relating to worker safety, including pesticide use/exposure, heat illness injury prevention, and/or regulating terms and conditions of agricultural employment. The establishment of a recordkeeping requirement will enhance the ability of the agency to verify and enforce the required supervisor training through the farm labor contractor licensing program.

Article 4: Farmworker Remedial Account

Proposed new Article 4 contains three (3) new sections specifying requirements and procedures for recovery under the Farmworker Remedial Account which exists pursuant to Labor Code 1684(a)(4). The requirements set forth in this section will specify the procedures under which the Labor Commissioner will be able to disburse unpaid wages and damages awarded to persons who have been damaged by either a licensee or an unlicensed farm labor contractor.

Section 13667: Procedure to Obtain Damages from the Farmworker Remedial Account

This section sets forth the procedure for claiming and disbursing funds for the recovery of damages from the Farmworker Remedial Account for claims made by an employee or employee’s representative. This section specifies the required information which must be submitted to the Labor Commissioner which includes:

- A list naming each employee or claimant for whom recovery is sought and the time period for which recovery is sought.
- The name and address of the farm labor contractor(s), grower(s) or packer(s) whose conduct has damaged the employee(s), or claimant(s).
- A valid form of identification, including a social security or Taxpayer Identification Number, if available, of each employee for whom recovery is sought.
- A copy of the written authorization of claimant to his or her representative authorizing the representative to act on his or her behalf that bears

the claimant's signature, if applicable, and mailing instructions for payment of the claim.

- A copy of an Order, Decision or Award or final court judgment, if applicable.
- A declaration or affidavit under penalty of perjury which complies with the provisions of the Code of Civil Procedure Section 2015.5 containing information regarding attempts made to satisfy the claim by demand against the surety bond provided in Labor Code Section 1684(a)(3) and the results of that demand, and/or what attempts, if any, were made to collect the recovery sought directly from the farm labor contractor, grower or packer and the results of those attempts. The declaration or affidavit required herein may be signed by the representative of the employee(s) claimant(s), or farm labor contractor if the information submitted does not require the personal knowledge of the employee(s), claimant(s), or farm labor contractor.

This section also specifies that if no attempts were made to collect either from the surety bond or the farm labor contractor, grower, or packer, the declaration must explain the reasons for such inaction and makes clear that the fact that no attempts have been made will not of itself defeat recovery from the Farmworker Remedial Account, if it is shown that any attempt would have been futile. This section sets forth the provisions for the exercise of discretion by the Labor Commissioner provided under Labor Code section 1684(a)(4) in determining disbursements upon review of information provided to the Labor Commissioner. This section replaces former sections 13660 and 13661, proposed for amendment, with a single section within a new article pertaining to administering and disbursing funds from the Farmworker Remedial Account.

Section 13667.1: Hearing

This section provides for the authority of the Labor Commissioner to order an investigatory hearing to determine the amount of damages actually suffered by an employee or other claimant seeking recovery from the Farmworker Remedial Account. This section specifies that if an order for hearing is made a service of notice of a hearing will be made either personally, or by certified mail, upon the farm labor contractor, and employee(s) or other claimant(s). This section provides the authority for an investigatory hearing, at the discretion of the agency, which would apply where there is conflicting or insufficient information regarding the amount of damages provided in a claim against the Farmworker Remedial Account, and provides for notice and location of the hearing.

Section 13667.4: Payment of Wage Claims Against the Farmworker Remedial Account

This section sets forth the specifications under which valid claims against the Farmworker Remedial Account shall be disbursed by the Labor Commissioner. This section establishes the procedures for administering the Farmworker Remedial Account and disbursing funds which will provide a more full recovery of valid claims. Specifically, this section:

- Establishes that claims against the Farmworker Remedial Account determined to be due a worker will be paid based on the order a claim is received.
- Provides that if there are insufficient funds in the Farmworker Remedial Account to pay a valid claim, the valid claim shall be held until adequate funds are deposited into the Farmworker Remedial Account to pay the valid claim.
- Provides for full payment of claims which are held in the event there are insufficient funds to pay a valid claim.

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The objective of the regulations is to codify the existing procedures, standards, and criteria for issuance of licenses used by DLSE in carrying out the statutory requirements provided in Chapter 3 (Farm Labor Contractors) of Part 6 (Licensing) in Division 2 (Employment Regulation and Supervision) of the Labor Code requiring Farm Labor contractors to apply for, and receive, a Farm Labor Contractors license issued by the DLSE prior to engaging in activities related to procuring labor to perform agricultural work. These regulations expand upon existing regulations regarding farm labor contractors licensed by the agency which only pertain to the agency's disbursement of funds from the Farmworker Remedial Account for workers who have been damaged by a farm labor contractor's failure to pay wages to workers after a determination regarding the validity of a claim (8 CCR 13660–13662), and are in response to requests by the regulated public (licensees and persons interested in obtaining a license) and worker groups who have increasingly requested from the DLSE standardized information regarding the standards, criteria, and processes for issuance of Farm Labor Contractor licenses.

DETERMINATION OF INCONSISTENCY AND/OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Labor Commissioner, Chief of the Division of Labor Standards Enforcement, Department of Indus-

trial Relations has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Acting Administrative Director has concluded that these are the only valid regulations to implement the statutory mandates contained in Chapter 3 (Farm Labor Contractors) of Part 6 (Licensing) in Division 2 (Employment Regulation and Supervision) of the Labor Code.

DUPLICATION OF LABOR CODE PROVISIONS

The proposed regulations repeat limited parts of various provisions of Labor Code sections 1682, 1683, 1684, 1685, 1688, 1689, 1695, 1695.6, 1695.7, 1696, 1696.3, and 1696.4. Duplication is necessary for the purpose of clarity such that the regulations represent comprehensive and detailed procedures, standards, and criteria for issuance of Farm Labor Contractor licenses, Educational Classes for Farm Labor Contractors, Duties of Contractors, and administration of the Farmworker Remedial Account used by DLSE.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Acting Administrative Director has made the following initial determinations:

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

- Statewide adverse economic impact directly affecting businesses and individuals: Although the proposed action will directly affect businesses statewide, including small businesses, and individuals who seek to or perform as farm labor contractors, the DLSE concludes that the adverse economic impact, including the ability of California businesses to compete with business in the other states, will not be significant.
- Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

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

The agency has determined that the proposed regulatory action will not have a significant impact on business. While the proposed regulations will impact farm labor contractor businesses that fall under the licensing requirement, the action primarily clarifies and standardizes existing requirements set by statute and will not significantly increase existing statutory obligations above that which the agency currently requires for license applicants.

Nearly all of the proposed regulations regarding information and supporting documents required for applications and renewal are currently provided by applicants and licensees to DLSE in order for the agency to determine fitness for a farm labor contractor license. The proposed regulations are no more burdensome than current administrative practices relating to application review and issuance of licenses and providing payments of claims against the Farmworker Remedial Account. Proposed regulations for written examinations, educational program approval, instruction, and records of classes are consistent with existing practices and processes used by DLSE for administration of the licensing program and create no significant additional burden for applicants, licensees, educational program providers, or workers claiming amounts under the Farmworker Remedial Account.

Proposed worker safety training of crew leaders and forepersons, and documentation thereof, are independently required under existing health and safety laws and thus, employers (including farm labor contractor licensee) are required to train their employees, including supervisors (see Title 8, CCR Section 3203). The proposed requirement for safety and health training in heat

illness injury prevention and response, and pesticide use and exposure, are known dangerous conditions for farmworkers' health and constitute risks which vary by the season, workplace, and with frequency throughout the year to justify requiring a licensee contractor to comply with an on-going minimal obligation of safety training consistent with the seasonal conditions and to maintain records of such training in order to operate as a licensed farm labor contractor. Since both worker training on hazards and record-keeping by employers are existing obligations, the proposed worker safety training will only have minimal impact to account for specific training in these areas and record-keeping for purposes of regulating a farm labor contractor licensee.

Proposed identification signage at worksites of farm labor contractors will impact licensee businesses that regularly employ farm laborers at various work sites throughout a year. The signage requirement allows for portability of signs containing consistent information identifying the licensee and field supervisor which can be re-used at different locations. The number of signs (2 per worksite) will vary with the number of worksites (farms) where crews are working. DLSE estimates that there will be a one-time cost no more than \$70 for signage at each worksite of a licensee.

Benefits of the Proposed Action: These regulations will clarify and standardize the existing procedures, standards, and criteria for issuance of Farm Labor Contractor licenses currently used by DLSE and will alleviate confusion and inconsistency with regards to interpretation of the standards and criteria provided by statute in Chapter 3 (Farm Labor Contractors) of Part 6 (Licensing) in Division 2 (Employment Regulation and Supervision) of the Labor Code.

Small Business Determination: The DLSE has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

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

The agency has initially determined that no alternatives would be more effective in carrying out the purpose that underlies the proposed regulatory action, or

would be at least as effective or less burdensome on the regulated public (persons who seek to operate a business as a farm labor contractor) and that would ensure full compliance with the existing licensing statutes being implemented or made specific by the proposed regulations.

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

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A text of draft proposed regulations will made available for pre-regulatory public comment from October 25th–December 9th, 2013 on the Agency's website (<https://www.dir.ca.gov/Rulemaking/DIRProposed.html>), and a public meeting for public comment will be held as noted. In addition, a pre-rulemaking stakeholder meeting was held to receive input on the development of the regulations.

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

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

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

In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Division's website at www.dir.ca.gov. To access them, click on the "Laws & Regulations" button and follow the link for "Rulemaking — Proposed Regulations". There you will find all of the agency's current rulemaking proceedings. Scroll down the list to find the Farm Labor Contractors — Application for Farm Labor Contractor License; Educational Classes for Farm Labor Contractors; Duties of Contractors; and, Farmworker Remedial Account rulemaking link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any sup-

plemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Division of Labor Standards Enforcement, 2031 Howe Avenue, Suite 100, Sacramento, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday, unless the state office is closed for a state holiday. Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

CONTACT PERSON

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

Jennifer Stevens,
Legislative Analyst and Regulations Coordinator
Department of Industrial Relations
Division of Labor Standards Enforcement,
Legal Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825
E-mail: jstevens@dir.ca.gov

The telephone number of the contact person is (916) 263-3400.

CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

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

Barton L. Jacka,
Industrial Relations Counsel III
Department of Industrial Relations
Division of Labor Standards Enforcement,
Legal Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825
E-mail: BJacka@dir.ca.gov

The telephone number of the backup contact person is (916) 263-2918.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the Division's website at www.dir.ca.gov.

AUTOMATIC MAILING

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

If adopted, the regulations as amended will appear in title 8, California Code of Regulations, commencing with section 13660. The text of the final regulations will also be available through the website of the Office of Administrative Law at www.oal.ca.gov.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE PROPOSED REGULATION ON THE COMMERCIALIZATION OF NEW ALTERNATIVE DIESEL FUELS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider a proposed regulation governing the commercialization of motor vehicle Alternative Diesel Fuels (ADF). The ADF regulation is intended to provide a legal pathway for emerging diesel fuel substitutes to enter the commercial market in California, to manage and minimize environmental and public health impacts, and to preserve the emissions benefits derived from the ARB motor vehicle diesel regulations.

DATE: December 12, 2013

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency

Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 12, 2013, and may continue at 8:30 a.m., on December 13, 2013. This item may not be considered until December 13, 2013. Please consult the agenda for the hearing, which will be available at least 10 days before December 12, 2013, to determine the day on which this item will be considered.

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

Sections Affected: Proposed adoption of California Code of Regulations (CCR), title 13, new sections 2293, 2293.1, 2293.2, 2293.3, 2293.4, 2293.5, 2293.6, 2293.7, 2293.8, 2293.9, and Appendix A.

Existing sections 2290, 2291, 2292.1, 2292.2, 2292.3, 2292.4, 2292.5, 2292.6, and 2292.7 would be grouped under new subarticle 1 (Specifications for Current Alternative Motor Vehicle Fuels). Existing sections 2293 and 2293.5 would be renumbered to 2294 and 2295, and would be grouped under a new subarticle 3 (Ancillary Provisions).

Documents Incorporated by Reference: The following documents, test methods, and model would be incorporated in the regulation by reference as specified by section:

1. "Guidance Document and Recommendations on the Types of Scientific Information Submitted by Applicants for California Fuels Environmental Multimedia Evaluations (Revised June 2008)," University of California, Davis, University of California, Berkeley, and Lawrence Livermore National Laboratory, available at http://www.arb.ca.gov/fuels/multimedia/080608_guidance.pdf section 2293.2(a)(20);
2. ASTM D613-10ae1, "Standard Test Method for Cetane Number of Diesel Fuel Oil (2010)," section 2293.7;
3. ASTM D5186-03(2009), "Standard Test Method for Determination of Aromatic Content and Polynuclear Aromatic Content of Diesel Fuels and Aviation Turbine Fuels by Supercritical Fluid Chromatography (2009)," section 2293.6;
4. ASTM D287-12b, "Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method) (2012)," Appendix 1(a)(2), (a)(3)(C), (a)(3)(D), (a)(3)(E);

5. ASTM D4629-12, "Standard Test Method for Trace Nitrogen in Liquid Petroleum Hydrocarbons by Syringe/Inlet Oxidative Combustion and Chemiluminescence Detection (2012)," Appendix 1(a)(3)(C), (a)(3)(D), (a)(3)(E);

6. ASTM D5453-93, "Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Spark Ignition Engine Fuel, Diesel Engine Fuel, and Engine Oil by Ultraviolet Fluorescence (1993)," section 2293.7(a)(1), Appendix 1(a)(3)(C), (a)(3)(D), (a)(3)(E);

7. ASTM D6890-13a, "Standard Test Method for Determination of Ignition Delay and Derived Cetane Number (DCN) of Diesel Fuel Oils by Combustion in a Constant Volume Chamber (2013)," section 2293.6(a), Appendix 1(a)(2);

8. ASTM D445-12, "Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity) (2012)," Appendix 1(a)(3)(C), (a)(3)(D), (a)(3)(E);

9. ASTM D93-13, "Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester (2013)," Appendix 1(a)(3)(C), (a)(3)(D), (a)(3)(E);

10. ASTM D86-12, "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure (2012)," Appendix 1(a)(3)(C), (a)(3)(D), (a)(3)(E);

11. EN 14103:2011, "Fat and oil derivatives. Fatty acid methyl esters (FAME). Determination of ester and linolenic acid methyl ester contents (2011)," Appendix 1(a)(3)(C), (a)(3)(D);

12. Snedecor and Cochran, "Statistical Methods," (7th ed., 1980), p.91, Iowa State University Press, Appendix 1(a)(3)(G).

Background and Effect of the Proposed Rulemaking:

The Low Carbon Fuel Standard (LCFS) (title 17, California Code of Regulations (CCR) section 95480 et seq.) and the federal Renewable Fuels Standard (RFS) (section 211 of the Clean Air Act, 42 United States Code 7545) both incentivize the expansion of the California transportation fuel pool to include more renewable and low carbon replacements for conventional motor vehicle gasoline and diesel. Furthermore, title 13, California Code of Regulations sections 2281 through 2285, impose fuel quality standards on conventional motor vehicle diesel fuel to limit both sulfur and aromatic hydrocarbon content.

There are already alternative diesel fuel substitutes in the California market, such as biodiesel and renewable diesel, and the LCFS, RFS, and other policies and programs will encourage further innovations in fuels. Some of these innovative fuels are already sold commercially and controlled through industry consensus standards that are implemented by the California Department of Food and Agriculture. Such fuels-related industry consensus standards seek mainly to address vehicle performance and fuel production quality issues. By contrast, air quality impacts from alternative diesel fuels are generally addressed by ARB or the U.S. Environmental Protection Agency (EPA).

The current California diesel fuel regulations focus almost entirely on petroleum hydrocarbon-based fuels for compression ignition engines. Because of the focus on petroleum fuels, the existing diesel regulations are ill-suited to providing a market pathway for innovative non-hydrocarbon-based alternative diesel fuels (e.g., biodiesel, dimethyl ether) and for ensuring that the anticipated air quality benefits from ARB's existing specifications for California diesel ("CARB diesel") are preserved.

Therefore, staff is proposing to consolidate existing administrative and legal procedures and requirements for alternative diesel fuels into this new regulation. The regulation will establish clear legal requirements for the introduction and commercial use of both current ADFs not already subject to ARB fuel standards and also new ADFs developed in the future. Staff proposes to specify biodiesel as the first commercial alternative diesel fuel subject to this new regulation, which will include necessary provisions to ensure fuel quality, safeguard against potential increases in oxides of nitrogen (NO_x) emissions, and maintain enforceability of these requirements.

Objectives and Benefits of the Proposed Regulation:

The primary objective of the proposed ADF regulation is to create a streamlined legal framework that protects California's residents and environment while allowing innovative ADFs to enter the commercial market as efficiently as possible. The proposal is intended to ensure that the introduction and use of innovative ADFs in California will have no significant adverse impacts on public health or the environment relative to conventional, petroleum-based "CARB diesel."

The proposed ADF regulation establishes a comprehensive, multi-stage process governing the commercialization of new ADFs in California. This process would start with a screening analysis that would allow limited sales of a regulated diesel substitute while it undergoes an initial evaluation; an intermediate stage with

expanded sales governed by enhanced monitoring, testing, and a multimedia evaluation; and a final stage with full-scale commercial sales and provisions designed to maintain environmental and public health protections as needed. The main benefit to the State is to provide and maintain safeguards that protect public health and the environment while such new fuels are being tested and used. The proposed regulation also benefits the State by providing a framework and clear rules that, in turn, will encourage the more rapid introduction of new innovative fuels with demonstrated public health advantages. Many of the innovative fuels under development have lower emissions of greenhouse gases (GHG), criteria, and toxic air pollutants, and a number of such fuels can also be produced from renewable or waste sources.

The proposal represents the culmination of a major ARB effort to develop a clear pathway for the commercialization of new diesel fuel substitutes. Over the past several years, ARB staff has conducted and continues to conduct essential research and analyses to understand the air quality impacts of biodiesel, renewable diesel, and other diesel fuel substitutes and additives (e.g., dimethyl ether, diesel additives). ARB also sponsored a comprehensive multimedia assessment under Health and Safety Code section 43830.8 for biodiesel and renewable diesel to determine if these fuels have any significant adverse impacts relative to conventional CARB diesel.

The effort started with the need to characterize and quantify the emissions potential of biodiesel and renewable diesel, the ultimate goal being the establishment of air quality-based fuel specifications for these two diesel substitutes that would allow for full commercialization in California. However, since that effort began, the LCFS, RFS, and other fuels policies and programs came into effect. Those programs encourage fuel producers to innovate, not only with biodiesel and renewable diesel, but also with other lower carbon fuels such as dimethyl ether. Indeed, such fuels are already under development. Consequently, ARB staff determined that a uniform and comprehensive review and approval program is needed to set clear ground rules for introducing and commercializing diesel fuel substitutes, both current ones like biodiesel and renewable diesel and upcoming ones such as dimethyl ether and others, while preserving the benefits of CARB diesel.

ARB staff has worked with major stakeholders such as biodiesel and renewable diesel producers; petroleum refiners and marketers; engine manufacturers; and environmental and public health advocates and local air districts to solicit input via meetings and public workshops on this proposal. Staff developed the proposal

based on ARB testing and research, and feedback from stakeholders.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulatory action, ARB staff reviewed other programs related to ADFs and concluded that the proposal is consistent and compatible with existing state regulations. In particular, staff reviewed two existing California programs: the ARB's Low Carbon Fuel Standard and the California Department of Food and Agriculture's (CDFA) fuels program.

The Low Carbon Fuel Standard regulation (17 CCR 95480 et seq.) reduces the average carbon intensity (CI) of California transportation fuels. However, the LCFS neither sets fuel specifications or any other requirements on the properties of the regulated fuels, nor does it establish provisions that govern the use and commercialization of transportation fuels. Thus, the proposal would be consistent and compatible with the LCFS.

Staff also reviewed CDFA's fuels program. The staff's proposal is consistent and compatible with the CDFA's fuels program because the fuel specifications in the proposal are air quality-based. Air quality-based specifications are allowed under State law, and the specifications in the proposal for ADFs that are currently regulated by CDFA (i.e., currently biodiesel and renewable diesel) fall within those contained in CDFA's regulations. Further, the proposal similarly is consistent and compatible with CDFA's developmental fuels variance program. This is because CDFA's program is intended to generate engine performance and warranty data to inform development of a consensus standard, while the proposal's screening analysis and multimedia evaluation provisions are intended to characterize environmental and public health impacts.

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations that are comparable to the proposed regulation or would accomplish the same objectives and benefits. The U.S. EPA implements a registration program for fuels and fuel additives under title 40, Code of Federal Regulations, part 79. Under that program, proponents of new fuels and fuel additives need to provide to U.S. EPA requested information so that the agency can determine the fuel or additive's "product emissions that may pose an unreasonable risk to public health." In addition, the U.S. EPA implements the Renewable Fuels Standard program (RFS2), which mandates fixed volumes of specified

biofuels to be blended with the national gasoline and diesel fuel pools. Under this program, mandated annual volumes of biomass-based diesel are specified, including biodiesel and renewable diesel.

There are a number of significant differences between the federal programs and the staff's proposal. First, the federal registration program applies only to gasoline and diesel and their additives. By contrast, the staff's proposal applies to any new alternative diesel fuel, including fuels that bear little or no resemblance to conventional diesel but nevertheless are designed to be used in compression ignition engines. Another significant difference is that the federal program applies only to on-road fuels and additives, while the staff's proposal applies to alternative diesel fuels used in on-road and off-road motor vehicles. For these reasons the federal program under 40 CFR 79 is neither comparable to the proposal nor would it accomplish the same objectives and benefits. Similarly, the proposal presents no conflict or inconsistency with the RFS2 program since the proposal does not restrict the volume sales of biodiesel, other biomass-based ADFs, or any other biofuels subject to RFS2. Instead, the proposal would impose specified pollutant mitigation measures (which does not include sales volume limits) if and when certain specified criteria are met, and staff's analysis projects it is highly unlikely those criteria will be met in the foreseeable future. Further, the proposal is based on California's general police power authority and is consistent with the provisions governing the State's regulation of fuels and fuel additives under section 211 of the Clean Air Act.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The ISOR is entitled, "Staff Report: Initial Statement of Reasons for the Proposed Regulation on the Commercialization of New Alternative Diesel Fuels."

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on October 23, 2013.

Final Statement of Reasons Availability

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

Agency Contact Persons

Inquiries concerning the substance of the proposed action may be directed to the designated agency contact persons, Jim Aguila, Manager of the Substance Evaluation Section, at (916) 322-8283, or Alexander Mitchell, Air Pollution Specialist, at (916) 327-1513.

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

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB’s website for this rulemaking at <http://www.arb.ca.gov/regact/2013/adf2013/adf2013.htm>.

DISCLOSURES REGARDING THE PROPOSED REGULATION

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

Fiscal Impact / Local Mandate

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

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

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

Cost Impacts on Representative Private Persons or Businesses

In developing this regulatory proposal, the Executive Officer evaluated the potential economic impacts on

representative private persons or businesses. As explained in the ISOR, the ARB is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

Effect on Jobs/Businesses:

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

Benefits of the Proposed Regulation:

The economic benefits of the proposed ADF regulation include the certainty provided by establishing clear rules and procedures for commercializing new alternative diesel fuels in California, which in turn reduces the cost and time required to bring new ADFs to market. At the same time, the proposal preserves the emission benefits of existing conventional “CARB diesel” fuel. Further, the proposed regulation benefits the State by encouraging a more rapid deployment of ADFs that could demonstrate significant public health advantages, such as lower criteria and toxic emissions, lower greenhouse gas emissions, and preservation of ecological resources, since many ADFs are produced from renewable or waste product sources.

The proposed regulation requires mitigation prior to biodiesel sales reaching a threshold that would cause an overall NOx emissions increase. Such mitigation would result in additional costs. However, staff’s analysis indicates it is highly unlikely that the threshold would be reached and therefore no mitigation costs are assumed.

The proposed ADF regulation does not require any specific amount of biodiesel or renewable diesel production volume. Instead, it will establish fuel standards and a legal framework for biodiesel and other ADFs to enter the commercial market. Producers of biodiesel can already meet the proposed standards, and biodiesel itself will enter into the proposed ADF program at the monitored commercialization stage called Stage 3A. Because producers of biodiesel will be in the same position in the market as they were before promulgation of the proposed regulation, no jobs will be created or lost due to the staffs proposal. Some increased testing and recordkeeping will be required under the proposal; however, no jobs will be created or lost since current

businesses can accommodate the increased testing and recordkeeping with existing resources.

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

Effect on Small Business

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not have any significant impacts on small businesses because any costs of compliance are minimal and will not affect the retail price of ADFs offered to the public.

Housing Costs

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

Business Reports

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

Alternatives

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. The analysis of such alternatives can be found in Chapter 7 of the ISOR.

Environmental Analysis

In accordance with ARB’s certified regulatory program, California Code of Regulations, title 17, sections 60006 through 60007, and the California Environmental Quality Act, Public Resources Code section 21080.5, ARB staff has conducted an analysis of the potential for significant adverse and beneficial environmental impacts associated with the proposed regulatory action. The environmental analysis of the proposed regulatory action can be found in Chapter 7 of the ISOR.

WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the meeting and may provide comments by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on October 28, 2013. To be considered by the Board, written comments not physically submitted at the meeting, must be submitted on or after October 28, 2013 and received **no later than 12:00 noon on December 11, 2013**, and must be addressed to the following:

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

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

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

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

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

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

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 38510, 38560, 38560.5, 38571, 38580, 39600, 39601, 41510, 41511, 43013, and 43018; and *Western Oil and Gas Ass’n v. Orange County Air Pollution Control District*, 14 Cal. 3rd 411, 121 Cal.Rptr. 249 (1975). This action is proposed to implement, interpret, and make specific

sections 38501, 38510, 38560, 38560.5, 38571, 38580, 39000, 39001, 39002, 39003, 39515, 39516, 41510, 41511, 43013, and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal. 3rd 411, 121 Cal.Rptr. 249 (1975).

HEARING PROCEDURES

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

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

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

SPECIAL ACCOMMODATION REQUEST

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

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

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

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

- Un intérprete que esté disponible en la audiencia

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

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

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN that the Department of Motor Vehicles, pursuant to the authority vested in it by Section 87306 of the Government Code, proposes amendment to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of Sections 87300 through 87302, and Section 87306 of the Government Code.

The Department of Motor Vehicles proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of Section 87302 of the Government Code.

This amendment reflects the organizational structure of the Department of Motor Vehicles as of April 1, 2011, and makes other technical changes to reflect the current organizational structure of the Department. Copies of the amended code are available and may be requested from the contact person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than December 9, 2013, or at the conclusion of the public hearing, if requested, whichever comes later, to the contact person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than November 25, 2013, by contacting the contact person set forth below.

The Department of Motor Vehicles has prepared a written explanation of the reasons for the proposed

amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the contact person set forth below.

The Department of Motor Vehicles has determined that the proposed amendments:

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

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

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

Debbie Swank Cockrill,
 Regulations Analyst
 Department of Motor Vehicles
 Legal Affairs Division
 PO Box 932382, MS C-244
 Sacramento, CA 94232-3820
 Telephone: (916) 657-6469
 Facsimile: (916) 657-6243
LRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following backup person:

Randi Calkins, Regulations Analyst
 Telephone: (916) 657-8898

**TITLE 13. NEW MOTOR
 VEHICLE BOARD**

NOTICE IS HEREBY GIVEN that the California New Motor Vehicle Board (“Board”), pursuant to the authority vested in the Board by subdivision (a) of Vehicle Code section 3050 proposes to adopt the regula-

tions as described below, after considering all comments, objections, and recommendations regarding the proposed regulatory action.

PROPOSED REGULATORY ACTION

The Board proposes to amend sections 553 and 553.20 of Title 13 of the California Code of Regulations pertaining to the Annual Board Fee.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, and at a noticed General Meeting held on January 22, 2013, the Board considered potential amendments to the regulations that are the subject of this rulemaking action. Ten days prior to the meeting, a detailed agenda including the topic of potential amendments to the regulations that are the subject of this rulemaking action was mailed to all individuals and entities on the Board’s Public Mailing list, Electronic Public Mailing list, and website subscription list. The agenda was also posted on the Board’s website.

Also prior to the publication of this notice, the Board considered and adopted the proposed regulations at a noticed General Meeting held on March 13, 2013. Ten days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulations was mailed to all individuals and entities on the Board’s Public Mailing list, Electronic Public Mailing list, and website subscription list. The agenda was also posted on the Board’s website.

No comments by the public were received at the January 22, 2013, or March 13, 2013, General Meetings, and no further public discussion was held prior to publication of the notice.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any person interested, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 323-1632 or by e-mail at rparker@nmvb.ca.gov or nmvb@nmvb.ca.gov. The written comment period

closes at 5:00 p.m. on December 9, 2013. The Board will consider only comments received at the Board's offices by that time. Submit comments to:

Robin P. Parker, Senior Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 323-1536 direct line
(916) 445-1888 main line
(916) 323-1632 fax
rparker@nmvb.ca.gov

AUTHORITY AND REFERENCE

Vehicle Code section 3050, subdivision (a), authorizes the Board to adopt the proposed regulations. The proposed regulations implement, interpret, and make specific Vehicle Code sections 3016, 3050, and 11723.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the amount of fees required to be paid by licensees under the Board's jurisdiction.

Subdivision (a) of Vehicle Code section 3050 authorizes the Board to adopt rules and regulations governing such matters as specifically committed to it.

The adopted mission of the Board is to: "enhance relations between dealers and manufacturers throughout the state by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner." In pertinent part, the Board's adopted vision statement provides that the Board "Safeguard for the Board's constituency, a fair, expeditious and efficient forum for resolving new motor vehicle industry disputes, which ultimately improves industry relations and reduces the need for costly litigation, and thereby further reducing the burden on California taxpayers. . . [and] Develop methods that further improve the delivery of Board services in a timely and cost-effective manner. . ."

The Board proposes to amend Section 553 to increase the Annual Board Fee from \$300 per year to \$400 per year for new motor vehicle dealers and increase the annual fee paid to the Board by new motor vehicle manufacturers or distributors by raising the numerical coefficient, on which the fee is based, from \$0.45 to \$0.60 per new motor vehicle sold, leased or otherwise distributed in California to a consumer of such new motor vehicles during the preceding calendar year. The proposed amendment would also limit the Annual Board Fee due from a manufacturer or distributor to

\$300 if only 1-250 vehicles were distributed or \$450 if only 251-806 vehicles were distributed.

Section 553.20 specifies the method for calculating the annual fee to be paid by each manufacturer and distributor by multiplying the numerical coefficient (as set forth in Section 553, subdivision (b) and discussed above) by the number of new motor vehicles distributed by the manufacturer or distributor in the preceding calendar year. The Board also proposes to amend Section 553.20 to conform it to the proposed amendments to Section 553.

Vehicle Code section 3016 authorizes the Board to charge a fee to new motor vehicle dealers and other licensees under its jurisdiction in an amount sufficient to fully fund the Board's activities.

Since the economic downturn, the Board has used its cash reserve to supplement annual income. The Board conservatively forecasted continued slow growth and recovery in the new motor vehicle industry. Unfortunately, industry growth has not been as robust as the Board had forecasted. Thus, if the subject fees are not raised, the Board's cash reserve will be entirely depleted by the end of the 2016-2017 fiscal year.

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The broad objective of the regulations is to ensure that the Board receives funds adequate to maintain a reserve fund that will, in turn, make certain that the Board has funds adequate to fulfill its mandate.

The specific benefit anticipated from the regulation is assurance of the continued operation of the Board, which, in turn, promotes the expeditious and economical resolution of statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. It provides a uniformity of decisions across the state, allowing franchisors and their dealers to conduct their business in compliance with California law. Lastly, through its Consumer Mediation Program, the Board offers, at no cost to the consumer, an informal means for efficiently resolving disputes between members of the public and any new motor vehicle dealer, manufacturer, or distributor.

DETERMINATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Board has determined that the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Board

has concluded that these are the only regulations that authorize the Board's collection of annual fees that are the subject of the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business:

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.

- Statewide adverse economic impact directly affecting businesses and individuals:

The proposed regulations raise fees by very modest amounts. The fees were reduced in 2002 to lessen the Board's surplus and that goal was achieved. The fees were reinstated in 2012 in an attempt to rebuild the Board's finances in the wake of the financial down-turn of 2007-2008. Unfortunately, the 2012 fee reinstatement, in light of diminished new motor vehicle sales, failed to provide income sufficient to fully fund the Board's operations. Although the proposed action will directly affect a limited, discreet class of businesses statewide, including small businesses and individuals, the Board has initially determined that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, would not be significant. In making this initial determination, the Board relied on the following documents:

- (1) A Fiscal Committee Memorandum dated January 16, 2013, which analyzed sales of new motor vehicles in 2011-2012, projected new motor vehicle sales for 2013-2015, and analyzed options for amendments to sections 553 and 553.20;

- (2) A Fiscal Committee Memorandum dated February 27, 2013, which analyzed sales of new motor vehicles in 2011-2012, projected new motor vehicle sales for 2013-2015, and analyzed options for amendments to sections 553 and 553.20; and
- (3) The January 2013, California Auto Outlook sponsored by the California New Car Dealers Association.
- (4) The Economic and Fiscal Impact Statement dated May 21, 2013.

The Board relied upon the following historical documents for background information on its annual fee collection:

- (1) Fund Condition Statement and charts, staff prepared revenue projections, and a February 1, 1999, Memorandum from Larry Holcomb, Department of Motor Vehicles, Budget and Analysis Office.
 - (2) Staff prepared revenue projections for fiscal year 2000-2001 and the Fund Condition Statement for fiscal years 1998-1999 and 2000-2001.
 - (3) November 15, 2000, Fiscal Committee Memo and projections.
 - (4) January 19, 2011, Fiscal Committee Memo, that contained a 17-year fiscal summary (fiscal year 1990-1991 through 2009-2010) along with alternative annual fee projections for five years.
- Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Board concludes that the proposed regulations will not (1) create any jobs within the State of California, (2) eliminate any jobs within the State of California, (3) create any new businesses within the State of California, (4) eliminate any existing businesses within the State of California, or (5) cause the expansion of businesses currently doing business within the State of California.

BENEFITS OF THE REGULATION

The proposed regulations will promote the expeditious and economical resolution of disputes between new motor vehicle dealers and their manufacturers or distributors. Also, benefits the public or consumer at no cost through Consumer Mediation Program, an informal means in efficiently resolving disputes between the public and any new motor dealer, manufacturer, or distributor.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulations will have a minimal effect on small business, in that the proposed regulations will marginally increase fees paid by a small number of small businesses.

CONSIDERATION OF ALTERNATIVES

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

The Board invites interested persons to present comments, statements or arguments with respect to alternatives to the proposed regulations, during the written comment period or at the public hearing, if one is requested.

CONTACT PERSONS

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Parker at the following address:

Robin P. Parker, Senior Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 323-1536 direct line
(916) 445-1888 main line
(916) 323-1632 fax
rparker@nmvb.ca.gov

The backup contact person for these inquiries is:

Nicole Angulo
Management Services Technician
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 323-7204 direct line
(916) 445-1888 main line
(916) 323-1632 fax
nangulo@nmvb.ca.gov

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the Economic and Fiscal Impact Statement, and all the information upon which the proposal is based. Copies may be obtained by contacting the contact persons identified above.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Requests for copies of any modified regulation should be addressed to the Board contact person or back-up contact person at the addresses indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available to the public.

**AVAILABILITY OF THE FINAL STATEMENT
OF REASONS**

Upon completion of the Final Statement of Reasons, copies thereof may be obtained by contacting Ms. Parker or Ms. Angulo at the above address.

**AVAILABILITY OF DOCUMENTS ON THE
INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout font can be accessed through the Board’s website at www.nmvb.ca.gov.

**TITLES 13/17. AIR
RESOURCES BOARD**

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED GREENHOUSE GAS (GHG) REGULATIONS FOR MEDIUM- AND HEAVY-DUTY ENGINES AND VEHICLES, OPTIONAL REDUCED EMISSION STANDARDS FOR HEAVY-DUTY ENGINES, AND AMENDMENTS TO THE TRACTOR-TRAILER GHG REGULATION, DIESEL-FUELED COMMER-

CIAL MOTOR VEHICLE IDLING RULE, AND THE HEAVY-DUTY HYBRID-ELECTRIC VEHICLES CERTIFICATION PROCEDURES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the following heavy-duty vehicle related proposals:

- Adoption of new regulations to establish greenhouse gas emission (GHG) standards for medium and heavy-duty engines and vehicles to harmonize with the existing federal GHG emission standards (Phase 1 GHG Emissions Standards) for medium and heavy-duty engines and vehicles, consisting of proposed amendments to title 13, California Code of Regulations (CCR) sections 1900, 1956.8, 2036, 2037, 2112, and 2139, and proposed adoption of new sections title 17, CCR 95660 to 95664;
- Amendments to ARB’s existing Heavy-Duty Vehicle GHG Emission Reduction Regulation (Tractor-Trailer GHG regulation) to align with the U. S. EPA Phase 1 GHG Regulations and to clarify the requirements for tractors retrofitted with sleeper-cab compartments, title 17, CCR, sections 95300, 95301, 95302, 95303, and 95305;
- Adoption of new, optional oxides of nitrogen (NOx) standards for heavy-duty vehicle engines, title 13, CCR, sections 1956.8;
- Amendments to the Airborne Toxic Control Measure (ATCM) to Limit Diesel-fueled Commercial Motor Vehicle Idling to expand compliance responsibility, title 13, CCR, section 2485; and
- Amendments to the California Interim Certification Procedures for 2004 and Subsequent Model Hybrid-Electric and Other Hybrid Vehicles in the Urban Bus and Heavy-Duty Vehicle Classes, title 13, CCR, section 1956.8.

DATE: December 12, 2013

TIME: 9:00 a.m.

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

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 12, 2013, and may continue at 8:30 a.m., on December 13, 2013. This item may not be considered until December 13, 2013. Please consult the agenda for the hearing, which will be available at least 10 days before De-

ember 12, 2013 to determine the day on which this item will be considered.

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

This notice concerns staff’s proposal for five separate, but related regulatory actions related to on-road medium- and heavy-duty vehicles and engines. The sections of the CCR that are affected and documents incorporated by reference are described below for each of the five regulatory actions.

Sections Affected:

Phase 1 GHG Regulations

Proposed amendments to title 13, CCR, sections 1900, 1956.8, 2036, 2037, 2112, 2139, 2140, and 2147, and proposed adoption of new title 17, CCR, sections 95660, 95661, 95662, 95663, and 95664, including the following test procedures that are incorporated by reference herein: Proposed new test procedure entitled “California Greenhouse Gas Exhaust Emission Standards and Test Procedures for 2014 and Subsequent Model Heavy-Duty Vehicles,” which would be incorporated by reference in title 17, CCR, 95663(c); proposed amended test procedure “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles,” last amended April 18, 2013, incorporated by reference in title 13, CCR, 1956.8(b); proposed amended test procedure “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines,” last amended April 18, 2013, incorporated by reference in title 13, CCR, 1956.8(d).

Tractor-Trailer GHG Regulation

Proposed amendments to title 17, CCR, sections 95300, 95301, 95302, 95303, and 95305.

Optional Low NOx Standards

Proposed amendments to title 13, CCR, section 1956.8, and proposed amendments to “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles,” last amended April 18, 2013, incorporated by reference in title 13, CCR, section 1956.8(b), and proposed amendments to “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines,” last amended April 18, 2013, incorporated by reference in title 13, CCR, section 1956.8(d).

Heavy-Duty Diesel Idling ATCM

Proposed amendments to title 13, CCR, section 2485.

Hybrid–Electric Vehicle Certification Procedures

Proposed amendments to title 13, CCR, section 1956.8, and proposed amendments to “California Interim Certification Procedures for 2004 and Subsequent Model Hybrid–Electric Vehicles, in the Urban Bus and Heavy–Duty Vehicle Classes,” incorporated by reference in title 13 CCR sections 1956.8(b) and 1956.8(d).

Documents Incorporated by Reference:

Phase 1 GHG Regulations

The following documents are incorporated by reference in the proposed amendments to title 13, CCR, section 1956.8:

- “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy–Duty Diesel–Engines and Vehicles,” adopted December 12, 2002, as last amended April 18, 2013.
- “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy–Duty Otto–Cycle Engines,” adopted December 27, 2000, as last amended April 18, 2013.
- “California Non–Methane Organic Gas Test Procedures,” adopted July 12, 1991, as last amended December 6, 2012.

The following document is incorporated by reference in the proposed new title 17, CCR, section 95663:

- New “California Greenhouse Gas Exhaust Emission Standards and Test Procedures for 2014 and Subsequent Model Heavy–Duty Vehicles.”

The following documents are incorporated by reference in 40 CFR 1037.521(d):

- SAE J1252 Wind Tunnel Test Procedure for Trucks and Buses, Revised July 1981.
- SAE J1594 Vehicle Aerodynamics Terminology, Revised July 2010.
- SAE J2071 Aerodynamic Testing of Road Vehicles — Open Throat Wind Tunnel Adjustment, Revised June 1994.

The following documents are incorporated by reference in 40 CFR 1037.610(c):

- SAE J1321 Joint TMC/SAE Fuel Consumption Test Procedures Type II Reaffirmed 1986–10.
- SAE J1526 Joint TMC/SAE Fuel Consumption In–Service Test Procedure Type III Issued 1987–06.

The following documents are incorporated by reference in 40 CFR 1066.20:

- National Institute of Standards and Technology (NIST) Special Publication 811, 2008 Edition, Guide for the Use of the International System of Units (SI), March 2008.

The following documents are incorporated by reference in 40 CFR 1066.310(b):

- SAE J1263 Road Load Measurement and Dynamometer Simulation Using Coastdown Techniques, Revised March 2010.
- SAE J2263 Road Load Measurement Using Onboard Anemometry and Coastdown Techniques, Revised December 2008.

The following document is incorporated by reference in 40 CFR 1066.501:

- SAE J2711 Recommended Practice for Measuring Fuel Economy and Emissions of Hybrid–Electric and Conventional Heavy–Duty Vehicles, Issued September 2002.

The following documents are incorporated by reference in “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy–Duty Diesel–Engines and Vehicles,” adopted December 12, 2002, as last amended April 18, 2013, and California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy–Duty Otto–Cycle Engines,” adopted December 27, 2000, as last amended April 18, 2013:

- “California 2001 through 2014 Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2009 through 2016 Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light–Duty Trucks and Medium–Duty Vehicles,” as amended December 6, 2012.
- “California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light–Duty Trucks and Medium–Duty Vehicles,” as amended December 6, 2012.
- American Society for Testing and Materials (ASTM) D240–09 Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, approved July 1, 2009.
- ASTM D4809–09a Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method), approved September 1, 2009.
- ASTM D5291–10 Standard Test Methods for Instrumental Determination of Carbon,

Hydrogen, and Nitrogen in Petroleum Products and Lubricants, approved May 1, 2010.

Tractor–Trailer GHG Regulation

None.

Optional Low NOx Standards

- “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy–Duty Diesel–Engines and Vehicles,” adopted December 12, 2002, as last amended April 18, 2013.
- “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy–Duty Otto–Cycle Engines,” adopted December 27, 2000, as last amended April 18, 2013.

Heavy–Duty Diesel Idling ATCM

- “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy–Duty Diesel Engines and Vehicles,” as last amended on April 18, 2013.
- “California Exhaust Emission Standards and Test Procedures for 2001 through 2014 Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2009 through 2016 Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light–Duty Trucks, and Medium–Duty Vehicles,” as incorporated by reference in title 13 CCR 1961(d).

Hybrid–Electric Vehicle Certification Procedures

- “California Interim Certification Procedures for 2004 and Subsequent Model Hybrid–Electric Vehicles, in the Urban Bus and Heavy–Duty Vehicle Classes,” adopted October 24, 2002.

Background and Effect of the Proposed Rulemaking:

Phase I GHG Regulation

On November 14, 2011, U.S. EPA and the National Highway Traffic Safety Administration (NHTSA), on behalf of the U.S. Department of Transportation, jointly adopted GHG emission standards and fuel economy standards for 2014 through 2018 model year medium– and heavy–duty engines and vehicles, informally known as the “U.S. Phase 1” GHG regulations or federal Phase 1 program. The U.S. Phase I GHG regulations establish the first federal GHG emission standards for medium– and heavy–duty engines and vehicles.

In this rulemaking action, ARB staff is proposing new regulations to establish GHG emission standards applicable to new vehicles and to amend existing regulations to establish GHG standards applicable to new California medium and heavy–duty vehicle engines. The proposed new regulation and related amendments

would align California’s GHG emissions standards and test procedures with those of the U.S. Phase I GHG regulation, provide nationwide consistency for engine and vehicle manufacturers, and allow ARB to both certify new motor vehicles and new motor vehicle engines to GHG standards and to enforce those requirements in California.

Tractor–Trailer GHG Regulation

The Board initially approved the Tractor–Trailer GHG regulation (title 17 CCR 95300–95312) on December 11, 2008, and subsequently adopted amendments to the regulation on October 26, 2011. The regulation reduces GHG emissions by requiring long–haul tractors and trailers to be equipped with specified aerodynamic technologies and low–rolling resistance tires that act to reduce the aerodynamic drag and rolling resistance forces acting on such tractors and trailers. The regulation incorporates elements of the U.S. EPA’s voluntary SmartWay program, which develops test protocols and establishes performance criteria to verify the GHG emissions reduction benefits of heavy–duty tractors and equipment associated with heavy–duty tractors and trailers. The Tractor–Trailer GHG regulation currently requires 2011 and subsequent model year sleeper–cab tractors pulling 53–foot or longer box–type trailers on California highways to be SmartWay designated tractor models, and 2011 or subsequent day–cab tractors pulling 53–foot or longer box–type trailers on California highways to be equipped with SmartWay verified low rolling resistance (LRR) tires. The Tractor–Trailer GHG regulation also requires both 2011 and newer and 2010 and older 53–foot or longer box–type trailers to either be SmartWay designated trailers or to be retrofitted with SmartWay verified aerodynamic technologies and SmartWay verified LRR tires.

To harmonize the tractor–based requirements of the federal and California regulations, staff is proposing to sunset the tractor–based requirements for 2014 and subsequent model year tractors, but will maintain all elements of the trailer–based requirements of the existing Tractor–Trailer GHG regulation. Staff is also proposing to modify the Tractor–Trailer GHG regulation to clarify the applicability of the tractor–based requirements for tractors that are subsequently retrofitted with sleeper cab compartments and to allow 2014 and newer model year heavy–duty tractors to be eligible for the existing short–haul and local–haul tractor exemptions. The trailers hauled by such short–haul and local–haul tractors would be exempted as well.

Optional Low–NOx Standards

California is the only state that is authorized to adopt and enforce emission standards for new motor vehicles and engines that differ from federal emission standards. Because of the large number of California heavy–duty

trucks that travel interstate, ARB has generally aligned California's heavy-duty engine standards with federal heavy-duty engine standards. Since 1990, both California and EPA have established increasingly more stringent emission standards for heavy-duty diesel engines. Specifically, the California and federal emission standards for NO_x have been reduced from 6 grams per brake-horsepower hour (g/bhp-hr) in 1990 to the current standard of 0.2 g/bhp-hr.

In addition to the primary NO_x standards, California has also established several optional, lower NO_x standards over the past 15 years. From 1998 to 2003, optional NO_x standards ranged from 2.5 g/bhp-hr to 0.5 g/bhp-hr, at 0.5 g/bhp-hr increments, which were much lower than the mandatory 4.0 g/bhp-hr limit. Starting in 2004, engine manufacturers could choose to certify to optional NO_x + non-methane hydrocarbon (NMHC) standards ranging from 1.8 g/bhp-hr to 0.3 g/bhp-hr, at 0.3 g/bhp-hr increments, which was significantly less than the mandatory 2.4 g/bhp-hr NO_x+NMHC standard. These optional standards allowed local air districts and ARB to preferentially provide incentive funding to purchasers of cleaner trucks, which encouraged the development of cleaner engines.

ARB presently does not have a mechanism in place to allow heavy-duty engine manufacturers to optionally certify engines to standards more stringent than the 2010 MY standard. To encourage development of lower NO_x engines and reduce emissions, ARB staff is proposing to establish the next generation of optional NO_x standards for heavy-duty engines, that would specify three optional NO_x emission standards of 0.1 g/bhp-hr, 0.05 g/bhp-hr, and 0.02 g/bhp-hr, which would correspond to emission levels that are 50 percent, 75 percent, and 90 percent lower than the current mandatory standard, respectively. Several existing programs such as the Carl Moyer Program and Proposition 1B Program and ARB's Truck and Bus regulation currently provide some incentive for optionally certified engines and could be modified to provide additional incentives for engine manufacturers to certify to the proposed optional standards. To the extent that engine manufacturers elect to certify heavy-duty engines to the optional NO_x standards, those optional NO_x standards will provide emission benefits and pave the way for future cleaner engines.

Heavy-Duty Diesel Idling ATCM

On July 22, 2004, ARB initially adopted an Air Toxic Control Measure (ATCM) to limit diesel-fueled commercial motor vehicle idling. ARB subsequently adopted amendments to this ATCM on September 1, 2006 and October 19, 2009. This ATCM is set forth at title 13, CCR section 2485, and requires, among other things, that drivers of diesel-fueled commercial motor

vehicles with gross vehicle weight ratings greater than 10,000 pounds not idle the vehicle's primary diesel engine longer than five minutes at any location.

ARB staff is proposing to expand the applicability of the idling ATCM to include the vehicle owner and the motor carrier that dispatched the vehicle. Staff is also proposing to include schools, hotels, and motels in the definition of "restricted area." "Restricted area" is currently defined as "any real property zoned for individual or multifamily housing units, that has one or more of such units on it," and the existing ATCM prohibits idling of a main engine beyond five minutes or operation of a diesel-fueled auxiliary power unit longer than five minutes when located within 100 feet of a restricted area. The proposed amendments will ensure that emission benefits from the existing ATCM are realized by increasing the regulation's compliance rate and would provide those members of the public who attend schools, or work or reside at hotels and motels, additional protection from exposure to diesel particulate matter and other toxic air contaminants, and the associated potential cancer risks and other adverse health effects associated with diesel emissions.

Hybrid-Electric Vehicle Certification Procedures

On October 24, 2002, ARB approved the adoption of "California Interim Certification Procedures for 2004 and Subsequent Model Hybrid-Electric Vehicles, in the Urban Bus and Heavy-Duty Vehicle Classes." These interim certification procedures allow manufacturers to voluntarily certify heavy-duty hybrid-electric vehicles using a vehicle-based (as opposed to engine-based) certification. ARB staff is proposing to update the interim certification procedures to clarify and enhance certification requirements due to expanding commercialization and advancement of hybrid technology into more sectors of the heavy-duty market and the need to better quantify emission reductions from existing and future heavy-duty hybrid vehicles. Specifically, the amendments would expand the existing applicability of the certification procedures to allow more vocational vehicles to certify, and would clarify and enhance certification requirements. The amended test procedures would remain as voluntary, interim procedures.

Objectives and Benefits:

ARB has established a comprehensive regulatory program to reduce emissions from on-road medium- and heavy-duty vehicles in California, as part of ARB's program to improve air quality and reduce the emissions that contribute to climate change. This hearing notice encompasses staff's proposals for five proposed regulatory actions that all relate to on-road medium- and heavy-duty vehicles and engines. The objectives and expected benefits of each proposal include:

Phase 1 GHG Regulations: These proposed regulations would establish new GHG emissions standards for 2014 and subsequent model year medium- and heavy-duty engines and vehicles sold in California that are identical to the national GHG emission standards established by U.S. EPA in 2011. These proposed regulations would provide California with the ability to certify new medium- and heavy-duty engines and vehicles to the new standards, and to enforce those standards in California. The proposed Phase 1 GHG regulations would not require additional compliance actions beyond those currently required by the U.S. Phase 1 GHG regulations, hence resulting in no new direct emission benefits.

In 2004, the U.S. Supreme Court clarified that a standard, as it applies to emissions from motor vehicles and motor vehicle engines under Title II of the federal Clean Air Act, relates to the emission characteristics of vehicles or engines and requires motor vehicles or motor vehicle engines to emit no more than a certain amount of a given pollutant, be equipped with a certain type of pollution-control device, or have some other design feature related to the control of emissions. *Engine Manufacturers Association v. South Coast Air Quality Management District* (2004) 541 U.S. 246, 253, 124 S.Ct. 1756, 1762 (EMA). Staff is proposing that the Phase 1 GHG regulation add a definition of “emission standard” to be consistent with the definition set forth in EMA for purposes of clarity, consistency, and conformity and to clarify that the definition of emission standard as used in the Phase 1 GHG regulation conforms to the federal definition. For purposes of clarification and consistency, ARB staff is also adding the terms “exhaust emission standard” and “evaporative emission standard” in the definitions section to provide more specificity, where needed, to preexisting textual references to emission standards.

Staff is also proposing to add these definitions to title 13, CCR section 1900(b) to clarify that the requirements applicable to on-road motor vehicles and motor vehicle engines set forth in Article 2, Chapter 1, Division 3 of title 13, California Code of Regulations and the associated remedies provided in the Health and Safety Code for noncompliance constitute “emission standards,” “evaporative emission standards,” or “exhaust emission standards,” and to title 13, CCR section 1956.8 to clarify that the proposed amendments to establish optional NOx emission standards for heavy-duty engines (described below) also constitute “emission standards,” “evaporative emission standards,” or “exhaust emission standards.”

Amendments to Tractor-Trailer GHG Regulation: The proposed amendments to ARB’s Tractor-Trailer GHG regulation would sunset the requirements applicable to new 2014 and subsequent model year sleeper

cab tractors, and would clarify that 2013 MY tractors that are optionally certified to the U.S. Phase 1 GHG regulations are exempted from the Tractor-Trailer GHG regulation. The proposed Phase 1 GHG regulations described above would establish the GHG emission standards for new 2014 and subsequent model year heavy-duty tractors that are currently subject to existing Tractor-Trailer GHG regulation. Overall, the U.S. Phase 1 GHG program in California, including the proposed amendments to sunset the elements of the Tractor-Trailer GHG regulation applicable to 2014 and newer model year heavy-duty tractors, is expected to reduce 3.1 million metric tons carbon dioxide equivalent (MMTCO_{2e}) in 2020 and 7.0 MMTCO_{2e} in 2035, which corresponds to a 7.2 percent reduction in 2020 and 12.5 percent reduction in 2035.

Staff is also proposing to add a definition of “emission standard” to be consistent with the definition set forth in *Engine Manufacturers Association v. South Coast Air Quality Management District* (2004) 541 U.S. 246, 253, 124 S.Ct. 1756, 1762 (EMA) for purposes of clarity, consistency, and conformity. Under the federal definition, requirements to equip tractors and trailers with specified aerodynamic equipment and low rolling resistance tires relate to a requirement that a vehicle be equipped with a certain type of pollution-control device or a design feature related to the control of emissions, and are emission standards. The proposed amendments are intended to make clear that the definition of emission standard as used in the Tractor-Trailer GHG regulation conforms to the federal definition.

Optional Low NOx Emission Standards: The proposed regulation would establish new, optional NOx standards for heavy-duty vehicle engines that are more stringent than the currently applicable NOx standard of 0.2 g/bhp-hr to encourage the development of new, cleaner engines. Since the proposed regulation would be entirely optional, the associated emission benefits would be dependent upon the level of participation by engine manufacturers. Estimated NOx emission benefits could be as high as 1.2 tons per day (tpd) NOx statewide in 2020, and 6.9 tpd NOx in 2035 if there is a high level of manufacturer participation.

Amendments to Diesel Idling ATCM: Currently, the compliance rate with the idling ATCM is less than desired because only the driver is responsible for an idling ATCM violation and sometimes it is impractical to issue the citation directly to the driver. The proposed amendments to ARB’s existing idling ATCM are intended to improve compliance with the existing idling ATCM by (1) expanding the current responsibility for compliance to vehicle owners and motor carriers, and (2) clarifying that restricted areas, which the existing idling ATCM defines as “any real property zoned for individual or multifamily housing units that has one or more

of such units on it” also include schools, hotels and motels. The existing idling ATCM prohibits idling of a main engine longer than five minutes or the operation of a diesel-fueled auxiliary power unit longer than five minutes when located within 100 feet of a restricted area. The proposed amendments would provide those members of the public who attend schools, or work or reside at hotels and motels, additional protection from exposure to diesel particulate matter and other toxic air contaminants. The amendments do not modify the requirements of the existing ATCM by establishing additional or more stringent emission standards applicable to truck or off-road engines, but would serve to ensure that the emission benefits of the existing ATCM are realized.

Staff is also proposing to add a definition of “emission standard” to be consistent with the definition set forth in *Engine Manufacturers Association v. South Coast Air Quality Management District* (2004) 541 U.S. 246, 253, 124 S.Ct. 1756, 1762 (*EMA*) for purposes of clarity, consistency, and conformity. Under the federal definition, requirements for heavy-duty commercial motor vehicles to incorporate engine designs to limit extended idling of the main engine constitute requirements to emit no more than a certain amount of a given pollutant, to be equipped with a certain type of pollution-control device, or have a design feature related to the control of emissions, and are emission standards. The proposed amendments are intended to make clear that the definition of emission standard as used in the ATCM to Limit Diesel-Fueled Commercial Motor Vehicle Idling conforms to the federal definition.

Amendments to ARB’s Heavy-Duty Hybrid Electric Vehicle Certification Procedures: The proposed amendments are intended make the certification procedures more broadly applicable to additional vocational vehicles and to heavy-duty plug-in hybrid electric vehicles that have entered the market since the regulation was originally adopted. The proposed amendments would provide a more comprehensive certification process but would not generate additional emissions reductions in the short-term. In the long-term, however, the expanded procedures could enable more hybrid-electric vehicles to be certified and produced, which could provide emission benefits.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulatory action, ARB conducted a search of similar regulations and has concluded that the proposed regulatory

actions are neither inconsistent nor incompatible with existing state regulations.

COMPARABLE FEDERAL REGULATIONS

ARB staff is proposing a new regulation that would establish GHG standards for new 2014 and subsequent model year California medium- and heavy-duty engines and vehicles that are identical to U.S. EPA’s Phase 1 GHG regulation (Final Rule Greenhouse Gas Emission Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles, 76 Federal Register 57106–57513, (September 15, 2011), as subsequently amended on August 16, 2013 (78 Federal Register 36, 370–36,406 (June 17, 2013)). U.S. EPA’s Phase 1 GHG standards establish requirements for three distinct regulatory vehicle classes: combination tractors, vocational vehicles, and heavy-duty pick-up trucks and vans, and generally begin with model year 2014 engines and vehicles and increase in stringency through 2018 model year engines and vehicles.¹

California’s existing Tractor-Trailer GHG regulation currently applies to a subset of the 2014 and newer combination tractors regulated by the U.S. Phase 1 GHG standards. The proposed amendments to the Tractor-Trailer GHG regulation would delete the requirements for 2014 and subsequent model year tractors to be SmartWay designated models and to use SmartWay verified low-rolling resistance tires, and would clarify that 2013 MY tractors that are optionally certified to the U.S. Phase 1 GHG regulations are exempted from the Tractor-Trailer GHG regulation. As described above, the proposed Phase 1 GHG regulations would establish GHG standards for new 2014 and subsequent model year California heavy-duty tractors that are essentially harmonized with the U.S. Phase 1 GHG regulations. However, the proposed amendments to the Tractor-Trailer GHG regulation would not affect elements of the Tractor-Trailer GHG regulation that apply to categories of tractors that are not subject to the U.S. EPA’s Phase 1 GHG regulation (2011 through 2013 model year new sleeper cab and new day cab tractors, and 2010 and older model year sleeper cab and day cab tractors) or to new and used 53-foot and longer box-type trailers hauled on California highways.

California has an existing regulation (title 13 CCR section 1956.8(a)(6)) that requires new California-certified 2008 and subsequent model-year on-road diesel engines in heavy-duty diesel vehicles to be equipped with a system that automatically shuts down the engine after five minutes of continuous idling.

¹ The U.S. EPA Phase 1 GHG regulations contain a provision allowing manufacturers the option to certify 2013 model year engines and vehicles in order to obtain emissions credits. 40 CFR 1036.150(e) and 40 CFR 1037.150(a), respectively.

Manufacturers may also elect to optionally certify such engines to a NOx idling emission standard of 30 grams per hour.

The U.S. Phase 1 GHG regulation contains provisions that provide credits to vehicle manufacturers that elect to utilize automatic engine shutdown systems (40 Code of Federal Regulation, Part 1037, Subpart G, section 1037.660), but does not require new vehicles to incorporate idle shutdown systems. Moreover, the federal idle shutdown system requirements are less stringent and differ from California's requirements. Specifically, the federal regulation allows an engine manufacturer to remove the automatic engine shutdown system once the vehicle has accrued 1.29 million miles whereas California's idle shutdown requirements for new engines do not allow the removal of the automatic engine shutdown system for the life of the vehicle. Therefore, California's new engine idle shutdown requirements are more stringent than the provisions of the U.S. Phase 1 GHG regulations that provide carbon dioxide emission credits to engine manufacturers certifying with automatic engine shutdown systems. The U.S. Phase 1 GHG regulations contain no provision allowing engine manufacturers to optionally certify an engine to a NOx idling emission standard.

California's Heavy-Duty Diesel Idling ATCM prohibits heavy-duty diesel-fueled commercial motor vehicles from idling longer than five minutes, and from operating diesel-fueled auxiliary power systems (APSS) longer than five minutes when located within 100 feet of a restricted area, defined as real property zoned for individual or multifamily housing units that has one or more of such units on it. There are no comparable federal provisions prohibiting the extended idling of diesel-fueled commercial motor vehicles or the extended operation of diesel-fueled APSS within designated areas.

U.S. EPA does not have any optional NOx emission standards for heavy-duty engines comparable to the proposed amendments establishing optional NOx engine emission standards. Similarly, there are no comparable federal provisions comparable to the proposed amendments to California's Interim Hybrid Test Procedures.

In 2004, the United States Supreme Court clarified the definition of standard as it applies to emissions from motor vehicles and motor vehicle engines under Title II of the federal Clean Air Act relates to the emission characteristics of a vehicle or engine and require motor vehicles or motor vehicle engines to emit no more than a certain amount of a given pollutant, be equipped with a certain type of pollution-control device, or have some other design feature related to the control of emissions. (*EMA* 541 U.S. at 253.) The proposed amendments are intended to make clear that the definition of emission

standard as used in the Phase 1 GHG regulations, in the Tractor Trailer GHG regulation, in the proposed amendments to establish optional NOx emission standards for heavy-duty engines, and in the requirements applicable to on-road motor vehicles and motor vehicle engines set forth in Article 2, Chapter 1, Division 3 of title 13, California Code of Regulations conform to the federal definition as interpreted.

STATE IMPLEMENTATION PLAN REVISION

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

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory actions, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: *Proposed Greenhouse Gas (GHG) Regulation for Medium- and Heavy-Duty Engines and Vehicles, Optional Reduced Emission Standards for Heavy-Duty Engines, and Amendments to the Tractor-Trailer GHG Regulation, the Diesel-Fueled Commercial Motor Vehicle Idling Rule, and the Heavy-Duty Hybrid-Electric Vehicles Certification Procedures.*

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on October 23, 2013.

Final Statement of Reasons Availability

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

Agency Contact Persons

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons, (Phase 1 GHG and Optional Low NOx Standards) Ms. Kim Heroy-Rogalski at (916)

327–2200, (Tractor–Trailer GHG and Idling Airborne Toxic Control Measure), Mr. Stephan Lemieux at (626) 450–6162, or (Hybrid Certification Procedures), Mr. John Kato at (916) 322–2891.

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

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB’s website for this rulemaking at <http://www.arb.ca.gov/regact/2013/hdghg2013/hdghg2013.htm>.

DISCLOSURES REGARDING THE PROPOSED REGULATION

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

Fiscal Impact/Local Mandate

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory actions relating to the amendments to the Tractor–Trailer GHG Regulation, the proposed adoption of new Optional Low NOx Standards, the amendments to the ATCM to Limit Diesel–Fueled Commercial Motor Vehicle Idling, and the amendments to the Heavy–Duty Hybrid Electric Vehicle Certification Procedures would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

Pursuant to Government Code section 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has further determined that the proposed regulatory action to adopt the Phase 1 GHG regulations would create costs or savings to any State agency or in federal funding to the State. The proposed regulatory action to adopt the Phase 1 GHG regulations would create costs to a state agency (ARB), but would not impose a mandate to any state agency, and would not create costs or mandates on local agency or school district, whether or not reimburs-

able by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

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

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

The proposed regulations and regulatory amendments would impose minimal costs on affected parties and have minimal or no economic impacts on businesses due to the voluntary nature of the proposed adoption of the Optional Low NOx Standards and the proposed amendments to the Heavy–Duty Hybrid Electric Vehicle Certification Procedures, and due to the fact that the proposed amendments to the Tractor–Trailer GHG Regulation and to the ATCM to Limit Diesel–Fueled Commercial Motor Vehicle Idling are only directed towards clarifying existing requirements or enhancing the enforceability of existing requirements, rather than imposing new requirements. The proposed adoption of the Phase 1 GHG regulations would impose minimal costs on affected parties because such parties would be subject to nearly identical requirements under the federal Phase 1 GHG regulations.

While the proposed Optional Low NOx standards are completely optional and impose no additional costs on manufacturers that elect not to certify engines to such optional standards, these proposed standards are the only element of the proposal that could have significant new costs (\$36 to \$279 million over 20 years, depending on the level of participation by engine manufacturers and the NOx emission characteristics of those manufacturers’ existing engine families.).

Cost Impacts on Representative Private Persons or Businesses

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The conclusions are summarized below and discussed further in the ISOR:

1. Phase 1 GHG Regulations

Complying with the federal Phase 1 GHG standards will impose costs on engine and vehicle manufacturers; however, California’s proposed harmonization with the federal Phase 1 standards will only impose minimal additional costs on manufacturers; primarily, costs to provide ARB a copy of materials that manufacturers have submitted to U.S. EPA and some California–

specific reporting data to California. Staff expects this to cost no more than \$1,000 per manufacturer, with no impact on new vehicle prices.

2. Tractor–Trailer GHG Regulation

Representative private persons or businesses would not incur any additional costs as result of these amendments.

3. Optional Low NOx Standards

An engine manufacturer that elects to certify engines to the optional NOx standards will incur average certification testing costs of about \$20,000 for the model year of initial opt–in, which could be the 2015 model year or a later model year. An engine manufacturer will also incur costs to modify an engine so that its NOx emissions are sufficiently low. The degree of modifications and associated costs are dependent on the emissions characteristics of the base engine, and are estimated to range \$0–\$6,000 per engine.

Staff estimated cumulative costs for the optional NOx standards using two scenarios. The low adoption rate scenario assumed that 12.7 percent of the applicable fleet will opt to comply with the three–tier standards by full implementation in 2035, and the high adoption rate scenario assumed an adoption rate of 25.7 percent of the applicable fleet in 2035. For each scenario, staff estimated costs using two options (engines would be powered by different percentages of conventional and alternate fuels). Based on the assumed annual participation rates discussed in the Staff Report, staff has estimated that manufacturers would incur hardware costs ranging from \$0 to \$6,000 per engine to modify engines to meet the low optional NOx standard, plus certification costs of approximately \$20,000 per engine family, with the anticipated cumulative cost for the fleet over the 20–year life of the regulation estimated at \$36 to \$279 million. A detailed description of the cost calculation is provided in the Staff Report.

4. Heavy–Duty Diesel Idling ATCM

The proposed amendments to the Heavy–Duty Diesel Idling ATCM will impose minimal or no additional compliance costs because they are consistent with the existing Heavy–Duty Diesel Idling ATCM’s requirement not to idle the main engine of the vehicle or to operate non–compliant alternative idle reduction devices longer than five minutes, and because vehicle owners and motor carriers should already be providing drivers information regarding the idling ATCM.

5. Hybrid–Electric Vehicle Certification Procedures

The proposed amendments to the Heavy–Duty Hybrid–Electric Vehicle Certification Procedures will impose minimal or no additional compliance costs because they are voluntary and consistent with the existing interim certification procedures.

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

Effect on Jobs/Businesses:

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

Benefits of the Proposed Regulation:

The objective of the proposed amendments and new regulations is to harmonize California requirements with federal requirements, and ease enforcement and implementation of existing regulations aimed at improving air quality and reducing the emissions that contribute to climate change.

A summary of the benefits of the proposed amendments and new regulations is provided; please refer to “Objectives and Benefits” above, under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion earlier in this notice.

Effect on Small Business

The Executive Officer has also determined, pursuant to CCR, title 1, section 4, that the proposed regulatory actions would not affect small businesses because the proposed regulations and regulatory amendments will impose minimal costs on affected parties and have minimal or no economic impacts on small businesses due to the voluntary nature of several of the proposed regulations and regulatory amendments and the fact that the majority of the amendments are aimed at expanding or improving enforcement of existing requirements rather than imposing new requirements. Each regulatory action is discussed further below:

1. Phase 1 GHG Regulation

The Phase 1 GHG requirements would not affect small businesses as small business engine and truck manufacturers are exempted from the proposed Phase 1 GHG Regulations.

2. Tractor–Trailer GHG Regulation

There are no estimated private sector costs for businesses, large or small, for the proposed amendments to the Tractor–Trailer GHG Regulation.

3. Optional Low NOx Standards

There are no estimated costs for small businesses because the businesses affected, engine manufacturers, are large businesses.

4. Heavy-Duty Diesel Idling ATCM

The Heavy-Duty Diesel Idling ATCM affects primarily small businesses; however, the amendments impose minimal or no additional compliance costs.

5. Hybrid-Electric Vehicle Certification Procedures

The proposed amendments to the Heavy-Duty Hybrid-Electric Vehicles Certification Procedures will impose minimal or no additional compliance costs because they are voluntary and consistent with the existing interim certification procedures.

Housing Costs

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

Business Reports

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the proposed Phase 1 GHG regulations, the amendments to the Tractor-Trailer GHG regulation, the proposed new, Optional Low NOx emission standard, the amendments to the Heavy-Duty Diesel Idling ATCM and the amendments to the Heavy-Duty Hybrid Electric Vehicle Certification Procedures that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Alternatives

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

Environmental Analysis

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

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the meeting and may provide comments by postal mail or by electronic submittal before the meeting. The public comment period for these regulatory actions will begin on October 28, 2013. To be considered by the Board, written comments not physically submitted at the meeting, must be submitted on or after October 28, 2013 and received no later than 12:00 noon on December 12, 2013 and must be addressed to the following:

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

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

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

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

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

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

AUTHORITY AND REFERENCE

1. Phase 1 GHG Regulations

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 38501, 38505, 38510, 38560, 39010, 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806 and Section 28114, Vehicle Code.

This action is proposed to implement, interpret, and make specific sections 38501, 38505, 38510, 38560,

38580, 39002, 39003, 39010, 39500, 39600, 39601, 39667, 43000, 43000.5, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213, and 43806, 44004, 44010, 44011, 44012, 44015, and 44017 Health and Safety Code; and Section 28114, Vehicle Code.

2. Tractor–Trailer GHG Regulation

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 38510, 38560, 38560.5, 39010, 39600, and 39601. This action is proposed to implement, interpret or make specific sections 38510, 38560, 38560.5, 39010, 39600, and 39601, Health and Safety Code.

3. Optional Low NOx Standards

This regulatory action is proposed under that authority granted in sections 39010, 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. This action is proposed to implement, interpret, and make specific sections 39002, 39003, 39010, 39017, 39033, 39500, 39650, 39657, 39667, 39701, 40000, 43000, 43009, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

4. Airborne Toxic Control Measure to Limit Diesel–Fueled Commercial Motor Vehicle Idling

This regulatory action is proposed under that authority granted in sections 39600, 39601, 39614(b)(6)(A), 39658, 39667, 43000.5(d), 43013(b), 43013(h), 43018(b), and 43018(c), Health and Safety Code; and *Western Oil & Gas Assn. v. Orange County Air Pollution Control Dist.* (1975) 14 Cal.3d 411. This action is proposed to implement, interpret, and make specific sections 39002, 39003, 39027, 39500, 39600, 39650, 39655, 39656, 39657, 39658, 39659, 39662, 39665, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3, 42402, 42402.1, 42402.2, 42402.3, 42403.5, 42410, 43013, 43018, and 43704, Health and Safety Code; Sections 305, 336, 350, 440, 445, 545, 546, 642, 680, 21400, 22452, 22515, 27153, 40001, 40001(b)(5), California Vehicle Code; and Sections 1201,1900, 1962, 2480, Title 13, California Code of Regulations.

5. Hybrid–Electric Vehicle Certification Procedures

This regulatory action is proposed under that authority granted in sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. This action is proposed to implement, interpret, and make specific sections 39002,

39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HEARING PROCEDURES

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

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

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

SPECIAL ACCOMMODATION REQUEST

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

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

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

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

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

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

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 203, 713, 3402, 3404, and 3406 of the Fish and Game Code and to implement, interpret or make specific sections 3400, 3401, 3402, 3403, 3404, 3406, 3407, 3408, 3409, 4331, 4332 and 4341 of said Code, proposes to amend Section 601 and subsection 702(a)(1), Title 14, California Code of Regulations, relating to Enhancement on Private Lands Management.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations in Section 601, Title 14, California Code of Regulations (CCR) describe the procedures required for the operation of the Private Lands Wildlife Habitat Enhancement and Management Area (PLM) Program. Current regulations specify tag reporting and payment requirements, initial year hunting restrictions, due dates, and annual reporting procedures.

Current regulations require licensees to sign an application annually. This is redundant paperwork for the landowner, Department and the Commission. Each Initial/5-Year Application and subsequent approval by the Commission licenses the PLM for 5 years. Modifying the language in subsection 601(b)(6) will reduce the workload on Department and Commission staff by removing the requirement for the annual application. Current regulations in subsection 702(a)(1) specify application forms for PLMs. These forms are consolidated and revised to reflect the proposed amendments to Section 601

The proposed regulatory changes will establish new tag reporting requirements, due dates, and replace tag applications with PLM vouchers. In addition, the proposed changes would allow elk and antelope hunting during the first year of enrollment in the PLM Program. Modifying tag reporting requirements will allow the PLM tag holder flexibility in validating and reporting the PLM tag. Replacing PLM tag applications with

vouchers allows the use of the Automated License Data System (ALDS). Adding language to allow wardens to make unannounced property visits will deter poaching or trespass by unauthorized hunters and ensure compliance with existing laws and regulations. The proposed change to allow elk and antelope hunting the initial year of enrollment is intended to create consistency for all big game hunting.

Editorial changes are also proposed to improve the clarity and consistency of the regulations.

Benefits of the Regulations

The proposed changes to Section 601 will improve implementation of the PLM Program, increase flexibility for hunters to validate PLM tags and report their harvest, reduce workload for both Department staff and landowners, and improve compatibility with the Department's Automated License Data System. Overall, the PLM Program benefits the environment by providing incentives for landowners to improve wildlife habitat on approximately 1 million acres of private lands.

Non-monetary benefits to the public

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

Evaluation of incompatibility with existing regulations

The proposed regulations in this rulemaking action are neither inconsistent nor incompatible with existing State regulations. A key word search in the California Code of Regulations resulted in no other State agency having the authority to promulgate Private Land Management Regulations. There are no comparable federal regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Embassy Suites La Quinta Hotel & Spa, 50-777 Santa Rosa Plaza, La Quinta, California, on Wednesday, November 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hilton San Diego Mission Valley, 901 Camino del Rio South, San Diego, California, on Wednesday, December 11, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard.

Written comments may be submitted at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov.

All comments must be received no later than December 11, 2013 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 Sherrie Fonbuena at the preceding address or phone number. **Victoria Barr, Department of Fish and Wildlife, phone (916) 445–5034, 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 Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly

affecting business, including the ability of California businesses to compete with businesses in other states because the proposed regulatory change will not apply to businesses directly or indirectly. The amendments are administrative improvements to licensing procedures that will not reduce the number of visits to areas surrounding private lands participating in the PLM program. Licensee and hunter spending on gas, food, sporting equipment and other area businesses are not anticipated to change.

- (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:

Because the proposed regulatory change makes only technical, administrative changes to the current regulations, it is not anticipated to impact visits or spending in the areas surrounding private lands. Since the number of visitors and the volume of spending are not anticipated to change, direct or indirect impacts on job creation or elimination; business creation, elimination or expansion are not expected.

Significant direct benefits to the health and welfare of California residents are not anticipated, although improved wildlife habitat and sustainable wildlife populations contribute to the general health and welfare of the public.

Benefits to worker safety from the proposed regulation are not anticipated because the proposed regulation will not affect worker conditions.

The Private Lands Management Program (PLM) overall provides substantial environmental benefits by creating landowner incentives to improve habitat for wildlife on approximately 1 million acres of private lands in California.

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

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The proposed regulations are expected to improve administrative procedures by eliminating unnecessary annual applications and approvals for PLMs. It is expected that these changes will improve program efficiency and allow existing staff to spend more time reviewing reports and inspecting habitat improvements on existing PLMs. Therefore, no fiscal impact (cost or savings) to State Agencies and Federal Funding to the State.

- (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 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC COMMENT PERIOD ON PROPOSED AMENDMENTS TO THE AREA DESIGNATIONS FOR STATE AMBIENT AIR QUALITY STANDARDS

The Air Resources Board (ARB) is proposing amendments to the regulations designating areas of California as attainment, nonattainment, nonattainment-transitional, or unclassified for pollutants with State ambient air quality standards.

ARB has not scheduled a public hearing on this proposed action. However, ARB will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

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

Sections Affected: Proposed amendments to California Code of Regulations (CCR), title 17, sections 60201, 60203, 60205, 60207, and 60210.

Background and Effect of the Proposed Rulemaking

ARB is charged with the responsibility of adopting ambient air quality standards in consideration of the public health, safety, and welfare (Health and Safety Code [H&SC] section 39606). To date, ARB has adopted State ambient air quality standards (State Standards) for ten pollutants, set forth in CCR, title 17, section 70200. In addition, H&SC section 39607(e) requires ARB to establish designation criteria which provide the basis for designating areas of California as attainment or nonattainment with respect to the State Standards. The designation criteria are set forth in CCR, title 17, sections 70300 through 70306, and appendices 1 through 3 thereof. Based on these designation criteria, H&SC section 39608 further requires ARB to establish and annually review area designations for State Standards.

Objectives and Anticipated Benefits of the Proposed Amendments

During the annual review, ARB determines whether changes to the existing area designations are warranted based on an evaluation of recent air quality data. The proposed amendments to the area designations classify the air quality in communities as to whether it meets the State Standards. Based upon the area designations, every three years, the districts must assess their progress toward attainment of the State Standards and upon adoption of the triennial plan revision at a public hearing, submit the triennial plan revision to ARB. Districts may modify the emission reduction strategy or alternative measure of progress in the triennial plan if the district demonstrates to ARB's satisfaction that the modified strategy is at least as effective in improving air quality as the strategy in the triennial plan.

The annual review and update of the area designations gives the public, businesses, and government an indication of whether the health-based standards are being met. This information allows the public to make more educated decisions regarding personal health and

residency, as well as participation in outdoor activities. In addition, businesses and government are given the opportunity to make informed decisions regarding worker health and safety.

Objectives:

This year’s review of the area designations is based on air quality data from 2010 through 2012. The proposed amendments provide for the following changes:

Ozone:

- Designate Colusa and Glenn Counties in the Sacramento Valley Air Basin as Attainment. These areas are currently designated as Nonattainment Transitional.
- Designate Yolo County and that portion of Solano County in the Sacramento Valley Air Basin from Nonattainment–Transitional to Nonattainment.

Nitrogen Dioxide:

- Designate the South Coast Air Basin as Attainment. This area is currently designated as Nonattainment.

Lead (particulate):

- Designate Los Angeles County in the South Coast Air Basin as Attainment. This area is currently designated as Nonattainment.

PM₁₀ (Suspended Particulate Matter):

- Designate Del Norte and Trinity Counties in the North Coast Air Basin as Attainment. These areas are currently designated as Nonattainment.

PM_{2.5} Fine Particulate Matter :

- Designate that portion of the Salton Sea Air Basin located outside of the City of Calexico, as Attainment. This area is currently designated as Unclassified.
- Designate Glenn County in the Sacramento Valley Air Basin as Attainment. This area is currently designated as Unclassified.
- Designate Sacramento County in the Sacramento Valley Air Basin as Attainment. This area is currently designated as Nonattainment.

Benefits:

Environmental Justice. Some communities experience higher exposures to air pollutants, and it is a priority of ARB to ensure that full protection is afforded to all Californians. ARB’s designations provide members of these communities with updated information about the air quality of their communities, which, as stated, al-

lows them to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities.

Safeguarding the quality of the physical environment. An area’s designation status provides a classification that assists local districts to more accurately assess local air quality. As discussed above, depending on the proposed changes to areas’ designations, the district may be required to adopt and submit a triennial plan to correct for deficiencies in meeting the Standards ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide. As a result, indirect benefits to the quality of the physical environment may result if the district adopts or amends its regulations with a goal toward achieving the Standards.

Encouraging a regional approach to the State ambient air quality, whenever possible. The proposed designations by discrete areas allow each local district to assess the air quality of individual areas and address their unique situations and needs. This approach allows each local district to identify the most cost–effective, efficient, and acceptable approach to achieve the State Standards.

Consistency with the State goal of providing a decent home and suitable living environment. The annual review and update of the area designations gives local districts an indication of whether the health–based standards are being met. This information allows local districts to make informed decisions regarding appropriate actions to meet the State Standards.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The proposed changes, as well as the process for effecting those changes, to the area designations are consistent and compatible with existing State regulations. In designating Colusa and Glenn Counties in the Sacramento Valley Air Basin as attainment for ozone; the South Coast Air Basin as attainment for nitrogen dioxide; Los Angeles County in the South Coast Air Basin as attainment for lead (particulate); Del Norte and Trinity Counties in the North Coast Air Basin as attainment for PM₁₀ (suspended particulate matter); and the Salton Sea Basin located outside of the City of Calexico, Glenn County in the Sacramento Valley Air Basin, and Sacramento County in the Sacramento Valley Air Basin as attainment for PM_{2.5} (fine particulate matter), ARB has considered the data for record (defined in California

Code of Regulations, title 17, section 70301(a)),¹ which meet the representativeness and completeness criteria and which demonstrate that the respective State Standards were not violated in these areas. The representativeness criteria are set forth in Appendix A to this Notice (see Appendix 1) and in California Code of Regulations, title 17, Division 3, Chapter 1, Subchapter 1.5, Article 3, Appendix 1. The completeness criteria are set forth in Appendix A to this Notice (see Appendix 3) and in California Code of Regulations, title 17, Division 3, Chapter 1, Subchapter 1.5, Article 3, Appendix 3. Therefore, consistent with State regulations, ARB is proposing to designate the areas noted above as attainment. In addition, ARB has considered the data for record (defined in California Code of Regulations, title 17, section 70301(a)), which meet the representativeness and completeness criteria and which demonstrate that the State Standards for ozone were violated in Yolo County and the Sacramento Valley Air Basin (SVAB) portion of Solano County. Therefore, ARB is proposing to designate these areas as nonattainment for ozone.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal or local regulations that address area designations for the State Standards.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Initial Statement of Reasons for Rulemaking: Proposed 2013 Amendments to Area Designations for State Ambient Air Quality Standards."

Copies of the ISOR and the full text of the proposed regulatory language, in underline (to indicate additions) and ~~strike-out~~ (to indicate deletions) format to allow for comparison with the existing regulations, may be ac-

¹ California Code of Regulations, title 17, section 70301(a) provides, "Except as otherwise provided in this article, designations shall be based on 'data for record.' ¶(1) Data for record are those data collected by or under the auspices of the state board or the districts for the purpose of measuring ambient air quality, and which the Executive Officer or his or her delegate has determined comply with the siting and quality assurance procedures established in Part 58, Title 40, Code of Federal Regulations or other equivalent procedures. ¶(2) Any other data which are provided by a district or by any other person will be data for record if the Executive Officer or his or her delegate determines within 90 days of submittal of complete supporting documentation that the data comply with the siting and quality assurance procedures established in Part 58, Title 40, Code of Federal Regulations or other equivalent procedures. . ."

cessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990, on October 23, 2013.

Final Statement Of Reasons Availability

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

Agency Contact Persons

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Mr. Webster Tasat, Manager, Central Valley Air Quality Planning Section, at (916) 323-4950 or Ms. Theresa Najita, Air Pollution Specialist, Central Valley Air Quality Planning Section, at (916) 322-7297.

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

Internet Access

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB website for this rulemaking at <http://www.arb.ca.gov/regact/2013/area13/area13.htm>.

DISCLOSURES REGARDING THE PROPOSED REGULATION

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

Fiscal Impact/Local Mandate

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

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

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

Cost Impacts On Representative Private Persons Or Businesses

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

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

Effect on Jobs/Businesses:

In accordance with Government Code section 11346.3, the Executive Officer has determined the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. An assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

Depending on the proposed changes to areas' designations, districts may be required to adopt and submit a triennial plan to correct for deficiencies in meeting the Standards for ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide. The area designations are simply labels that describe the healthfulness of the air quality in each area. Because these regulations by themselves are simply labels of an area's air quality, they do not contain any specific requirements for action, other than the review, adoption, and submittal of a triennial plan by the district. As a result, they have no specific, direct economic impact. However, this regional approach to categorizing air quality allows each district to identify the most cost-effective and efficient approach to achieve the ambient air quality standards. In addition, the annual review and update of the area designations gives the public an indication of whether the health-based standards are being met, thereby allowing the public to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities. These personal health and residency decisions may translate into cost savings from reduced

medical expenses, hospitalizations, and time off from work, as well as improved psychological benefits. It also allows businesses and government the opportunity to make informed decisions about worker health and safety. These business and government decisions may also translate into cost savings from reduced workers' expenses such as medical expenses, hospitalizations, time off from work, and worker's compensation, as well as improved worker morale.

Benefits of the Proposed Regulation:

The objective of the proposed amendments to the regulation is to review and update the area designations which give the public, businesses, and government, an indication of whether the health-based standards are being met.

A summary of these benefits is provided; please refer to "Objectives and Anticipated Benefits of the Proposed Amendments," under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion above.

Effect On Small Business

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the proposed regulatory actions are simply labels of an area's air quality; they do not contain any specific requirements for action, other than the review, adoption, and submittal of a triennial plan by the district. As a result, they have no specific, direct impact on small businesses.

Housing Costs

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

Alternatives

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

Environmental Analysis

In accordance with ARB's certified regulatory program, California Code of Regulations, title 17, sections 60006 through 60007, and the California Environmental Quality Act, Public Resources Code section 21080.5, ARB has conducted an analysis of the poten-

tial for significant adverse and beneficial environmental impacts associated with the proposed regulatory action. The environmental analysis of the proposed regulatory action can be found in the ISOR.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

This regulatory proceeding will be conducted through the submittal of written documents. No public hearing is currently scheduled. However, a public hearing will be scheduled if any interested person or his or her duly authorized representative requests such a hearing by November 26, 2013, no later than 15 days prior to the close of the written comment period. The request must be in writing and must comply with the requirements of Government Code section 11346.8(a). If a public hearing is requested, a notice of the time, date, and place of the hearing, if requested, will be provided by separate notice.

The public comment period for this regulatory action will begin on October 28, 2013. Written comments on this regulatory proposal must be received no later than December 11, 2013, or if a hearing is conducted, at the hearing and addressed to the following:

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

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

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

AUTHORITY AND REFERENCE

This regulatory action is proposed under that authority granted in the Health and Safety Code, sections 39600, 39601, and 39608. This action is proposed to implement, interpret, and make specific Health and Safety Code sections 39608, 40718, and 40925.5.

REGULATORY AMENDMENT PROCEDURES

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

Following the close of the comment period, the Executive Officer may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Executive Officer may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted. The public may request a copy of the modified regulatory text, if applicable, from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

If you need this document in an alternate format or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

TITLE 18. BOARD OF EQUALIZATION

The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 1705, *Relief From Liability*

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation) 1705, *Relief From Liability*, which implements, interprets, and makes specific RTC section 6596's provisions for relief from sales and use tax liabilities due to reasonable reliance on written advice from the Board.

The proposed amendments add language to the end of the first sentence in Regulation 1705, subdivision (c), to clarify that the presentation of a person's books and records for examination by an auditor shall be deemed to be a written request for the audit report "by the audited person and any person with shared accounting and common ownership with the audited person." The proposed amendments add language to the end of Regulation 1705, subdivision (c), to clearly prescribe the circumstances under which a person has shared accounting and common ownership with an audited person and require that a person have shared accounting and common ownership with an audited person during the periods that the person is entitled to rely on the audited person's audit report for RTC section 6596 relief. The proposed amendments to Regulation 1705, subdivision (a), clarify that written advice provided under the circumstances described in subdivision (c) may be relied upon by the person audited "or a person with shared accounting and common ownership with the audited person."

PUBLIC HEARING

The Board will conduct a meeting in Room 121, at 450 N Street, Sacramento, California, on December 17-19, 2013. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:30 a.m. or as soon thereafter as the matter may be heard on December 17, 18, or 19, 2013. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Regulation 1705.

AUTHORITY

RTC section 7051.

REFERENCE

RTC section 6596.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

RTC section 6005 currently defines the term "person" for purposes of the Sales and Use Tax Law (Rev. & Tax. Code, § 6001 et seq.). It provides that the term includes "any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, the United States, this state, any county, city and county, municipality, district, or other political subdivision of the state, or any other group or combination acting as a unit."

Currently, under RTC section 6596, subdivision (a), if the Board finds that a person's failure to make a timely return or payment is due to the person's reasonable reliance on written advice from the Board, the person may be relieved of sales and use taxes and any penalties or interest added thereto (hereafter referred to as RTC section 6596 relief). Currently, under RTC section 6596, subdivision (b), a person's failure to make a timely return or payment is due to reasonable reliance on written advice from the Board only if the Board finds that:

- The person submitted a written request to the Board for advice about whether a particular activity or transaction is subject to sales and use tax and fully described the specific facts and circumstances of the activity or transaction in the request;
- The Board responded to the written request for advice in writing and stated whether or not the described activity or transaction is subject to tax, or stated the conditions under which the activity or transaction is subject to tax;
- In reasonable reliance on the Board's written advice, the person did not charge sales tax reimbursement or collect use tax from his or her customers or pay a use tax on the described activity or transaction; and
- The liability for taxes due to the failure to make a timely return or payment applied to a particular activity or transaction which occurred before the Board rescinded or modified the written advice or the Board's earlier written advice ceased to be valid due to a change in the law.

Also, currently, RTC section 6596, subdivision (d), generally provides that "[o]nly the person making the written request shall be entitled to rely on the [B]oard's written advice to that person."

Regulation 1705 implements, interprets, and makes specific the provisions of RTC section 6596. As relevant here:

- Regulation 1705, subdivision (b)(1), currently requires that a representative's written request for advice identify the specific person for whom the advice is requested in order for the identified person to rely on the advice in the Board's written response to the representative for RTC section 6596 relief;
- Regulation 1705, subdivision (c) currently applies to audits, states that the "[p]resentation of [a] person's books and records for examination by an auditor shall be deemed to be a written request for the audit report," and prescribes the circumstances under which an audit report may be relied upon for RTC section 6596 relief; and
- Regulation 1705, subdivision (a), currently provides that "[w]ritten advice from the Board which was received during a prior audit of the person under the conditions set forth in subdivision (c) below, may be relied upon by the person audited or by a legal or statutory successor to that person."

Also, as relevant here, subdivision (e) was added to Regulation 1705 in 1999 to explain the circumstances under which a trade or industry association may request written advice on behalf of its members so that the members can rely on the written advice for RTC section 6596 relief. And, subdivision (e) of Regulation 1705 was amended in 2009 to explain the circumstances under which a franchisor may request written advice on behalf of its franchisees so that the franchisees can rely on the written advice for RTC section 6596 relief. Subdivision (e) currently provides that:

A trade or industry association requesting advice on behalf of its member(s) must identify and include the specific member name(s) for whom the advice is requested for relief from liability under this regulation. A franchisor requesting advice on behalf of its franchisee(s) must identify and include the specific franchisee name(s) for whom the advice is requested for relief from liability under this regulation.

For an identified trade or industry member or franchisee to receive relief based on advice provided in the written communication to the trade or industry association or franchisor, the activity or transactions in question must involve the same facts and circumstances as those presented in the written inquiry by the association or franchisor.

As a result, a person cannot generally obtain RTC section 6596 relief by relying on written advice the Board gave to another person, even if their activities or trans-

actions are similar. However, Regulation 1705 does currently allow a person to obtain RTC section 6596 relief by relying on written advice the Board gave to the person's representative, trade or industry association, or franchisor under specified circumstances.

Effect, Objective, and Benefits of the Proposed Amendments to Regulation 1705

Need for Clarification

The Board conducted a hearing regarding a sales and use tax appeal filed by a business entity (hereafter referred to as ABC). During the hearing, ABC indicated that it followed written advice provided during the Board's prior audit of another business entity (hereafter referred to as XYZ). ABC stated that ownership of XYZ was similar to ABC, and that the two companies engaged in the same type of business in the same industry and shared a common accounting department. Also, records indicated that XYZ and ABC were related entities because XYZ owned more than 50 percent of ABC. Therefore, during the hearing, ABC argued that written advice provided to XYZ during its prior audit was indirectly provided to ABC as well, and that ABC should be permitted to rely on the written advice for RTC section 6596 relief. In response to ABC's arguments, the Board referred an issue to the Board's Business Tax Committee for further development. The issue was whether RTC section 6596 relief should only be available to the person who actually received the written advice from the Board or that person's legal or statutory successor under certain circumstances, such as those presented in ABC's appeal.

Business Taxes Committee staff subsequently reviewed the facts of ABC's appeal discussed above. First, staff found that when two persons in the same industry are under common ownership and share accounting functions and accounting staff, and the accounting staff presents one of the person's books and records to Board staff during an audit, then it would be reasonable for the accounting staff, under the direction of a common controlling ownership, to rely on the Board's written advice regarding the application of tax to the activities or transactions at issue in the audit report when conducted by the audited person and the related person. Second, staff found that, in this specific factual situation, the presentation of the audited person's books and records should be deemed to be a written request for the audit report by both the audited person and the related person so that RTC section 6596 relief will apply to a liability the audited person or the related person (having the above characteristics) incurs due to either of their reasonable reliance on the written advice Board staff provided in the audit report. Therefore, staff determined that it was necessary to clarify Regulation 1705 accordingly.

However, the facts of ABC's appeal did not concern ABC's reliance on written advice requested under the circumstances described in Regulation 1705, subdivision (b). Also, Business Taxes Committee staff found that Regulation 1705, subdivision (b) already provides a procedure to request written advice from the Board that identifies two related persons, such as ABC and XYZ, by name, so that both persons can subsequently rely upon the written advice for RTC section 6596 relief. And, staff found that continuing to require a request for written advice submitted on behalf of two related persons to comply with the procedures in Regulation 1705, subdivision (b), is consistent with the procedures in Regulation 1705, subdivision (e) (quoted above) regarding a trade or industry association's or franchisor's request for written advice on behalf of its member(s) or franchisee(s). Therefore, staff did not determine that there was a need to further clarify when related persons may rely on written advice requested from the Board outside of the audit context.

Interested Parties Process

As a result, Business Taxes Committee staff drafted amendments to Regulation 1705, subdivisions (a) and (c). The draft amendments suggested adding language to the end of the first sentence in subdivision (c) to clarify that the presentation of a person's books and records for examination by an auditor shall be deemed to be a written request for the audit report "by the audited person and any person with shared accounting and common ownership with the audited person." The draft amendments suggested adding language to the end of subdivision (c) to clearly prescribe the circumstances under which a person has shared accounting and common ownership with an audited person, and require that all of the circumstances exist at the time that an audit report is provided to the audited person in order for the person with shared accounting and common ownership to rely on the audit report for RTC section 6596 relief. The draft amendments also suggested amending subdivision (a) to clarify that written advice provided under the circumstances described in subdivision (c) may be relied upon by the person audited "or a person with shared accounting and common ownership with the audited person."

Business Taxes Committee staff subsequently provided its draft amendments to Regulation 1705 to the interested parties and conducted interest parties meetings in April and May 2013 to discuss the draft amendments. During the April meeting, a participant questioned the requirement, discussed above, that a person have shared accounting and common ownership with an audited person at the time that an audit report is issued, in order for the person with shared accounting and common ownership to rely on the audited person's audit report

for RTC section 6596 relief. The participant expressed concern that the requirement was too narrow and might prevent a person that was not in business when an audit report was issued, but otherwise has shared accounting and common ownership with the audited person, from relying on the audit report for RTC section 6596 relief when it would seem reasonable to rely on the audit report under the circumstances. As a result, staff addressed the concern by revising its draft amendments to Regulation 1705, subdivision (c) so that a person only has to have shared accounting and common ownership with an audited person during the periods that the person is entitled to rely on the audited person's audit report for RTC section 6596 relief. Staff also revised its draft amendments to add clarifying language and making minor grammatical edits recommended by the interested parties during the May meeting.

August 13, 2013 Business Taxes Committee Meeting

Subsequently, staff prepared Formal Issue Paper 13-006 and distributed it to the Board Members for consideration at the Board's August 13, 2013, Business Taxes Committee meeting. Formal Issue Paper 13-006 recommended that the Board propose to add language to the end of the first sentence in Regulation 1705, subdivision (c), to clarify that the presentation of a person's books and records for examination by an auditor shall be deemed to be a written request for the audit report "by the audited person and any person with shared accounting and common ownership with the audited person." The formal issue paper recommended that the Board propose to add language to the end of Regulation 1705, subdivision (c), to clearly prescribe the circumstances under which a person has shared accounting and common ownership with an audited person and require that a person have shared accounting and common ownership with an audited person during the periods that the person is entitled to rely on the audited person's audit report for RTC section 6596 relief. The formal issue paper also recommended that the Board amend Regulation 1705, subdivision (a), to clarify that written advice provided under the circumstances described in subdivision (c) may be relied upon by the person audited "or a person with shared accounting and common ownership with the audited person."

At the conclusion of the Board's discussion of Formal Issue Paper 13-006 during the August 13, 2013, Business Taxes Committee meeting, the Board Members unanimously voted to propose the amendments to Regulation 1705 recommended in the formal issue paper. The Board determined that the proposed amendments to Regulation 1705 are reasonably necessary to have the effect and accomplish the objective of addressing the issue presented by the facts of ABC's appeal (discussed above) by clarifying that a person can rely on an audit

report issued to another person for RTC section 6596 relief under limited circumstances that are similar to the circumstances in ABC's appeal.

The Board anticipates that the proposed amendments to Regulation 1705 will promote fairness and benefit taxpayers, Board staff, and the Board by clarifying that RTC section 6596 relief can apply to a person who the Board would reasonably expect to rely on written advice provided by Board staff in a prior audit of another related person because the two persons are:

- In the same industry;
- Under common ownership; and
- Share accounting functions and accounting staff.

The Board has performed an evaluation of whether the proposed amendments to Regulation 1705 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations. In addition, the Board has determined that there are no comparable federal regulations or statutes to Regulation 1705 or the proposed amendments to Regulation 1705.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1705 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1705 will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the proposed amendments to Regulation

1705 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to Regulation 1705 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

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

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

The Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Regulation 1705 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to Regulation 1705 will not affect the benefits of Regulation 1705 to the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

The adoption of the proposed amendments to Regulation 1705 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

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

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends at 9:30 a.m. on December 17, 2013, or as soon thereafter as the Board begins the public hearing regarding the adoption of the proposed amendments to Regulation 1705 during the December 17-19, 2013, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Regulation 1705. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an underscored and strikeout version of the text of Regulation 1705 illustrating the express terms of the proposed amendments. The Board has also prepared an initial statement of reasons for the adoption of the proposed amendments to Regulation 1705, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the initial statement of reasons are

also available on the Board's Website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Regulation 1705 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Regulation 1705, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

TITLE 23. DEPARTMENT OF WATER RESOURCES

ADOPTION OF REGULATIONS FOR ISSUANCE OF ENCROACHMENT PERMIT AND ENFORCEMENT OF ACCESS TO THE RIGHT-OF-WAY ALONG THE STATE WATER RESOURCES DEVELOPMENT SYSTEM

The California Department of Water Resources ("Department") proposes to adopt new regulations establishing rules and procedures for obtaining an Encroachment Permit and removal of unauthorized encroachments along the State Water Resources Development System, otherwise known as the State Water Project ("SWP"). Authority for the regulations is found in S.B. 543 (Stats. 2005, c, 263; Margett) that established Water Code sections 12899, *et seq.* The regulations, adopted pursuant to the authority of Water Code section 12899.9, will implement, interpret, or make specific

Water Code sections 12899 through 12899.11, and create standards for obtaining an Encroachment Permit. Section 12899.5 authorized the Department to remove encroachments and the regulations implement that authority. The regulations will establish a new Chapter 6, "Encroachments", within Title 23, Division 2 of the California Code of Regulations. The regulations will add Sections 600 through 630 within Chapter 6.

The Department has prepared this Notice of Proposed Action as specified by Government Code section 11346.5. The Department has also published the proposed language of the regulations (also referred to as the 45-day language Express Terms), the Initial Statement of Reasons in support of the proposed regulations, and an Economic and Fiscal Impact Statement for the proposed regulations. These documents are discussed below.

PUBLIC HEARING

Department staff will hold a public hearing on the following date and time to receive public comments on the proposed regulations:

December 9, 2013
Beginning 9:00 a.m. –1:00 p.m.
Bonderson Building
901 P Street
First Floor, Hearing Room 102–B
Sacramento, California
(Wheelchair accessible)

PLEASE TAKE NOTICE that the public hearing will begin at 9:00 a.m. and will continue until the earlier of 1:00 p.m. or until there are no people who wish to comment on the regulations.

At this hearing, any person may present oral and written comments on the proposed regulations. Persons may submit written comments as specified below. If possible, please submit written comments to be considered at the hearing by December 4, 2013. The Department will appreciate receiving written comments at the earliest possible date. Audio for the December 9, 2013, hearing will be available by telephone.

If you have a disability and require assistance to participate in either the workshop/hearing, please contact Leroy Ellinghouse at (916) 653–7168 at least five days in advance of the workshop/hearing.

ORAL AND WRITTEN COMMENTS AND COMMENT PERIOD

The 45-day public comment period for the proposed regulations is October 25, 2013, through and including December 9, 2013. The proposed regulations, initial

statement of reasons and related documents are accessible to the public and can be located at <http://www.water.ca.gov/regulations>.

Any interested person may submit oral and written comments on the proposed regulations. To provide time to properly evaluate written comments, it is requested that written comments be submitted no later than December 9, 2013. However, both oral and written comments will be accepted at the December 9, 2013, public hearing.

The Department will appreciate receiving written comments at the earliest possible date. E-mail is preferred. To e-mail comments on behalf of an organization, send a scanned copy of the comments on the organization's letterhead, signed by an authorized representative. Written comments must be signed or verified and must include the name of the commentator along with the commentator's address and telephone number. E-mail comments as attachments in either Microsoft Word format (.doc) or Adobe Acrobat portable document format (.pdf) to: epregs@water.ca.gov. All written comments sent by e-mail must indicate **Encroachment Permit Regulations** in the subject line or they may not be appropriately routed to the reviewers. Written comments may also be mailed to:

California Department of Water Resources
Encroachment Permit Regulations
Encroachment Unit
1416 Ninth Street, Room 649
Sacramento, CA 95814

AUTHORITY AND REFERENCE

The Department of Water Resources proposes to adopt the proposed regulations under the authority of Water Code section 12899.9. The proposed regulations will implement, interpret, and make specific Water Code sections 12899 through 12899.11, allowing the Department to control access and activities along the SWP right-of-way.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

A. SUMMARY OF EXISTING LAWS AND OBJECTIVE AND BENEFITS OF REGULATIONS

There is no current law, other than Water Code section 12899, *et seq.*, that specifically allows the Department to control the uses and activities within the SWP right-of-way. Although the statute provides an outline of the Department's authority and process for handling encroachments and encroachment permits, it does not set forth specifics as to the requirements that must be met to obtain an Encroachment Permit. The proposed

regulations establish rules and procedures for members of the general public and public agencies to apply for and obtain an Encroachment Permit to conduct various activities within the statutory right-of-way along the State Water Project aqueduct, pipelines and related facilities. In addition, Section 12899.5 authorizes the Department to remove encroachments under specified conditions if the department determines that the encroachment will interfere with the department's rights with regard to access, inspection, repair, or the operation and maintenance of the SWP facilities. The regulations clarify, explain and implement that process.

B. OBJECTIVE

The proposed regulations will add a new Chapter 6, "Encroachments", to Title 23, Division 2 of the California Code of Regulations. The regulations will add Sections 600 through 630, setting forth the requirements for obtaining an Encroachment Permit pursuant to the authority conferred by Water Code Section 12899.9. The regulations outline the application requirements, DWR review process, associated costs to the applicant, and will implement the enforcement provisions of Water Code section 12899, so that DWR can limit unauthorized encroachments and control access to the right-of-way. The Department has the authority under Water Code section 11451 to "have full charge and control of the construction, operation, and maintenance" of the SWP. Generally, the right-of-way extends about 300 feet along the aqueduct and 60-100 feet along the pipelines. Encroachments into this restricted space must be strictly controlled so that the integrity of these critical facilities can be maintained.

Since the SWP was initially constructed more than 50 years ago, land use adjacent to the aqueduct, pipelines and related facilities has changed significantly along with the population of the state. Farming has increased in areas where the SWP delivers water. Cities and subdivisions have edged closer and closer to the SWP aqueduct and pipeline alignments. While this evolution was anticipated from the beginning, encroaching development has created many problems for DWR. The Department's access to the facilities has been gradually limited by new towns and subdivisions. Farmland and orchards have expanded to the limits of the SWP right-of-way. Increasing development of adjacent properties has created a need for protection of this critical facility from unauthorized encroachments and increased the necessity for the Department to control access so that it can conduct its operations and maintenance functions without interference.

In 2005, in enacting Senate Bill 543, the Legislature recognized the State Water Resources Development System as serving a "critical public infrastructure function by providing water to California's residents, busi-

nesses, farms, environment, and other users." The Legislature formally conferred upon the Department of Water Resources the legal authority to control encroachments in the right-of-way and provided DWR the authority to remove unauthorized encroachments. Water Code section 12899 was enacted for this purpose. These proposed regulations seek to implement that authority.

C. ANTICIPATED BENEFITS

The regulations will provide the public with details of the requirements that must be met in order to obtain an Encroachment Permit, so that any person seeking access to the right-of-way will be able to determine what is required. Certain types of encroachments will necessarily interfere with the Department's ability to maintain and operate the facilities, so the regulations provide limitations on what activities or uses will be permitted. Uses of the right-of-way such as grading, trenching, digging, or water diversions can adversely impact the structural integrity of the aqueduct or pipelines, so the regulations control these types of activities. Finally, the regulations address unauthorized encroachments and inform the general public on the Department's process to seek removal of an unauthorized encroachment.

D. CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

After conducting a review, the Department has found no current regulations that specifically control access to the SWP right-of-way. Therefore, the proposed regulations are not inconsistent or incompatible with existing state regulations.

E. AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, EXPRESS TERMS, ECONOMIC AND FISCAL IMPACT STATEMENTS, AND INFORMATION UPON WHICH THE PROPOSED RULEMAKING IS BASED

The Regulations and Initial Statement of Reasons will be available to the public and will be published on the Department of Water Resources web page at www.water.ca.gov/regulations.

F. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Department has made the following initial determinations relative to the required statutory categories:

There will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The regulations are applicable to any business that seeks access to the right-of-way regardless of its principal place of business.

The Department is not aware of any additional cost impacts that a representative private person or business would necessarily incur in reasonable compliance with

the proposed action above or beyond what has been historically required by the Department for issuing an Encroachment Permit. The regulations do not mandate any activity to be conducted on the right-of-way. The decision to engage in activities on the right-of-way is discretionary by any individual, business, or public entity. In addition, there will be no non-discretionary costs or savings to local agencies, federal funding to the State or to any state agency beyond that required by law.

There will be no significant effect on housing costs.

In addition, the Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

G. RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department has made an initial determination that the proposed formalized Encroachment Permit process, including the payment of costs incurred by the Department in reviewing and issuing the permit, will not impact a person or business beyond what is currently required as part of the negotiated permit process that has been employed by the Department over the years.

The proposed regulations will not:

1. Create or eliminate jobs within California.
2. Create new businesses or eliminate existing businesses within California.
3. Affect the expansion of businesses currently doing business within California.
4. Affect the health and welfare of California residents, worker safety, or the environment.

H. EFFECT ON SMALL BUSINESSES

It has been determined that the amendments to and adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The regulations only apply to those persons or businesses that seek to apply for access or specified use of the Department's right-of-way for their own personal or business purposes. There is no legal mandate or requirement for use of the right-of-way; so the decision to seek an Encroachment Permit is entirely discretionary.

I. CONSIDERATION OF ALTERNATIVES

The Department has been utilizing alternatives in the form of negotiated agreements, use permits, leases, or other contractual arrangements for access to and use of the right-of-way since the SWP was completed. Since

each request was unique, it was difficult and time-consuming for staff within the Department to maintain consistency in the requirements for an encroachment permit or other authorized use of the right-of-way. These regulations are intended to provide consistency and certainty for those seeking access with regard to the requirements that must be met and will apply uniformly to any permit applicant.

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

J. CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Leroy Ellinghouse
Department of Water Resources
Division of Operations and Maintenance
1416 Ninth Street, Room 649
Sacramento, CA 95814
Phone: (916) 653-7168
Email: leroy.ellinghouse@water.ca.gov

The backup person for these inquiries is:

Scott Williams
Department of Water Resources
Division of Operations and Maintenance
1416 Ninth Street, Room 649
Sacramento, CA 95814
Phone: (916) 653-5746
Email: scott.williams@water.ca.gov

K. AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DWR may make the regulations permanent if it remains substantially the same as described in the Informative Digest. If DWR does make substantial changes to the regulations, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the contact person named in this notice. DWR will accept written comments on any changes for 15 days after the modified text is made available.

L. AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons will be available on the Department website at www.water.ca.gov/regulations. You may also obtain a

written copy of the Final Statement of Reasons by contacting Leroy Ellinghouse.

TITLE 27. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

PROPOSED AMENDMENT TO SECTION 25302, SCIENCE ADVISORY BOARD AND SECTION 25304, FINANCIAL DISCLOSURE

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to amend Title 27, Cal. Code of Regulations, section 25302 and section 25304. These amendments would clarify the existing requirements for scientific experts appointed to the committees by the Governor. These amendments will also remove certain portions of Section 25304 that were made redundant when advisory committee members were added to the Office of Environmental Health Hazard Assessment's (OEHHA) Conflict of Interest Code.¹

PUBLIC PROCEEDINGS

Public Hearing

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

Written Comment Period

OEHHA held a pre-regulatory workshop on June 17, 2013, and received no comments opposing the proposed amendments. Any written comments concerning these proposed actions, regardless of the form or method of transmission, must be received by OEHHA by 5:00 p.m. on **December 9, 2013**, the designated close of the written comment period. All comments received will be posted on the OEHHA website at the close of the public comment period.

The public is encouraged to submit written information via e-mail, rather than in paper form. Send e-mail comments to P65Public.Comments@oehha.ca.gov. Please include "Committee Qualifications" in the subject line. Hard-copy comments may be mailed, faxed, or delivered in person to the appropriate address below.

¹ Title 2, Cal. Code of Regs., section 54700.

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

CONTACT

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BACKGROUND

OEHHA is the state entity responsible for the implementation of Proposition 65.² OEHHA has the authority to adopt and amend regulations to make specific and further the purposes of Proposition 65. OEHHA maintains a list of chemicals known to cause reproductive toxicity or cancer. The law requires businesses to provide a warning when they knowingly cause an exposure to a listed chemical, and prohibits the discharge of listed chemicals into sources of drinking water. Proposition 65 states that one of the four ways a chemical can be identified as ". . . known to the state to cause cancer or reproductive toxicity within the meaning of this chapter [is] if in the opinion of the state's qualified experts it has been clearly shown through scientifically valid testing according to generally accepted principles to cause cancer or reproductive toxicity. . . ."³

Two committees serve as the "state's qualified experts" for identifying chemicals for the list and to further advise and assist the Governor in the implementation of Proposition 65: the Carcinogen Identification Committee (CIC) and the Developmental and Reproductive Toxicant Identification Committee (DARTIC).⁴

² The Safe Drinking Water and Toxics Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 et seq., commonly referred to as "Proposition 65".

³ Health and Safety Code section 25249.8(b).

⁴ Title 27, Cal. Code of Regs., section 25302.

SPECIFIC BENEFITS OF THE AMENDED REGULATIONS

These regulatory amendments will provide the following benefits:

- Clarify the qualifications for the members of both committees to ensure that the committees are able to act as the “state’s qualified experts”⁵.
- Eliminate redundant regulatory language related to conflict of interest reporting.
- Protect and enhance public health and the environment by scientific evaluation of risks posed by hazard substances.

NO INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING REGULATIONS

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

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

Because these proposed regulatory amendments relate to the qualifications for expert committees and procedural conflict of interest reporting for those committees, the proposed regulatory action will not have a significant statewide adverse economic impact.

Impact on the Creation, Elimination, or Expansion of Jobs/Businesses in California:

This regulatory proposal will not directly affect the creation or elimination of jobs within the State of California. The committees are statutorily required to provide advice and identify chemicals known to the state to cause cancer or reproductive toxicity. The economic impact, if any, of their future decisions would be speculative. Further, listing decisions under Proposition 65, including those of the committee, are expressly exempted from the requirements of the Administrative Procedure Act.⁶

Because the proposed regulatory amendments are procedural in nature and do not impose any mandatory requirements on businesses subject to the Act, OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of

jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Benefits of the Proposed Action: This proposed amendment is to ensure that committee members attain and maintain the expertise needed for these committees. These proposed amendments would ensure that committee members possess expertise that is the most relevant to the committees’ work. The ongoing conduct of scientific research and analysis and interpretation of research results are essential to maintaining scientific expertise, and demonstrate the ability to comprehend and interpret information on hazard identification. Service on expert scientific panels, peer-reviewing scientific work, and publishing in the scientific literature or submitting a peer-reviewed study to a government agency (generally within the past four years), are indications of the depth and breadth of understanding of recent scientific developments in the fields pertinent to the evaluation of reproductive or cancer hazards. This understanding is important in evaluating chemicals for potential listing under Proposition 65, thereby providing a public health benefit to Californians.

The proposed amendments to this section also remove an inconsistency in the current regulation between the two committees in terms of the required areas of expertise, in that the general field of toxicology was specified as relevant for both committees, while certain subspecialties of toxicology were identified only for the DARTIC.

AUTHORITY

Health and Safety Code section 25249.12.

REFERENCE

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

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Because Proposition 65 by its terms⁷ does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts; nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

⁵ Health and Safety Code section 25249.8(d).

⁶ Health and Safety Code section 25249.8(e).

COSTS OR SAVINGS TO STATE AGENCIES

Because Proposition 65 by its terms⁸ does not apply to any State agency and this regulation is simply a clarification of the existing regulations, OEHHA has initially determined that no significant savings or increased costs to any State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

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

EFFECT ON HOUSING COSTS

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

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

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESSES

OEHHA has determined that the proposed regulatory actions will not impose any mandatory requirements on small businesses. Because these proposed amendments will only update and clarify the regulation specifying the minimum qualifications for committee members, they will not have an adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA, would be more effective in carrying out the purpose for which Proposition 65 is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

⁷ Health and Safety Code section 25249.11(b).

⁸ Health and Safety Code section 25249.11(b).

FINAL STATEMENT OF REASONS

WRITTEN COMMENT PERIOD

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

Any interested person, or his or her authorized representative, may submit written statements, arguments or contentions (hereafter referred to as comments) relating to the proposed regulatory action by the Department. Comments must be received by the Department, Office of Legal Services, **by 5 p.m. on December 9, 2013**, which is hereby designated as the close of the written comment period,

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

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

ACTION: Notice of Rulemaking Action
Title 28, California Code
of Regulations

SUBJECT: Essential Health Benefits Filing
Worksheet; Adopting Section
1300.67.005 in Title 28, California
Code of Regulations; Control
No. 2013-4186

Website: <http://dmhc.ca.gov/regulations/>

Email: regulations@dmhc.ca.gov

Mail: Department of Managed Health
Care
Office of Legal Services
Attn: Regulations Coordinator
980 9th Street, Suite 500
Sacramento, CA 95814

Fax: (916) 322-3968

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care ("Department") proposes to adopt a regulation under the Knox-Keene Health Care Service Plan Act of 1975 ("Knox-Keene Act"), section 1300.67.005, "Essential Health Benefits Filing Worksheet." This regulation was initially adopted as an emergency regulation and approved by the Office of Administrative Law on July 5, 2013.

Please note: If comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, including via the website, email, fax or mail, should include the author's name and a U.S. Postal Service mailing address so the Department may provide commenters with notice of any additional proposed changes to the regulation text.

Before undertaking this action, the Director of the Department ("Director") will conduct written public proceedings, during which time any interested person, or such person's duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

Please identify the action by using the Department's rulemaking title and control number, **Essential Health Benefits Filing Worksheet, Control No. 2013-4186** in any of the above inquiries.

CONTACTS

PUBLIC HEARING

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

Inquiries concerning the proposed adoption of these regulations may be directed to:

Jennifer Willis
Senior Counsel
Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento, CA 95814
(916) 324-9014
(916) 322-3968 fax
jwillis@dmhc.ca.gov

OR

Emilie Alvarez

Regulations Coordinator
Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento, CA 95814
(916) 445-9960
(916) 322-3968 fax
ealvarez@dmhc.ca.gov

AVAILABILITY OF DOCUMENTS

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

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

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

AVAILABILITY OF MODIFIED TEXT

The full text of any modified regulation, unless the modification is only non-substantive or solely grammatical in nature, will be made available to the public at least 15 days before the date the Department adopts the regulation. A request for a copy of any modified regulation(s) should be addressed to the Regulations Coordinator. The Director will accept comments via the Department’s website, mail, fax or email on the modified regulation(s) for 15 days after the date on which the modified text is made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth without further notice.

AUTHORITY AND REFERENCE

California Health and Safety Code section 1341, subdivision (a), authorizes the DMHC to regulate health care service plans (“health plans”).

Section 1344 authorizes the Director of the DMHC (“Director”) to adopt, amend and rescind regulations as necessary to carry out the provisions of the Knox–

Keene Act, including rules governing applications and reports, and defining any terms, whether or not used in the Knox–Keene Act, insofar as the definitions are not inconsistent with the provisions of the Knox–Keene Act. Furthermore, the Director may waive any requirement of any rule or form in situations where in the Director’s discretion such a requirement is not necessary for the public interest or for the protection of the public, subscribers, enrollees, persons or plans subject to the Knox–Keene Act.

Section 1345, subdivision (f)(1), defines a “health care service plan” as “any person who undertakes to arrange for the provision of health care subscribers or enrollees, or to pay for or to reimburse any part of the cost of those services, in return for a prepaid or periodic charge paid by or on behalf of subscribers or enrollees.”

Section 1346 vests in the Director additional powers to administer and enforce the Knox–Keene Act, including but not limited to, the power to study, investigate, research and analyze matters affecting the interests of plans, subscribers, enrollees and the public and to promote and establish standards of ethical conduct for the administration of health plans.

Federal law, under the Patient Protection and Affordable Care Act (“ACA”), requires the Secretary of the Department of Health and Human Services (“DHHS”) to define “essential health benefits.” Under the ACA, health plans offering individual and small group contracts both inside and outside each state’s health benefits Exchange are required to provide coverage of these EHBs pursuant to ACA sections 1301 and 1302 (42 USC §18022), as well as Public Health Service Act (“PHSA”) section 2707 (42 USC § 300gg–6). In December 2011, the DHHS issued guidance for state implementation of EHBs. The federal guidance authorized each state to select a benchmark plan from a list of options, and to establish EHBs particular to that state. This guidance was codified at 45 Code of Federal Regulations (“CFR”) part 156.100 et seq., effective April 26, 2013. (78 Fed Reg. 12834, 12866.)

Pursuant to federal guidelines, the California legislature enacted AB 1453, adopting Health and Safety Code section 1367.005 in September 2012. Health and Safety Code section 1367.005 establishes the California EHB–benchmark plan by selecting the Kaiser Small Group HMO 30 plan (“Kaiser plan” or “base–benchmark plan”) as the base–benchmark plan. This section also designates state benefit mandates enacted prior to December 31, 2011, and “other health benefits,” which are services and devices not required under state law but nonetheless covered by the base–benchmark plan in the first quarter of 2012, as required EHBs. Health and Safety Code section 1367.005 establishes requirements for pediatric dental and vision benefits and coverage of rehabilitative and mental health services, and prohibits

substitution of benefits for EHB coverage requirements.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

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

Existing federal law under ACA section 1301(a) (42 USC § 18021) requires any health plans certified to participate on the Exchange as a QHP to provide the essential health benefits package defined in ACA section 1302(a) (42 USC § 18022). Existing federal law at PHSA section 2707 (42 USC § 300gg–6) also requires “health insurance issuers” offering coverage in the individual or small group market to ensure such coverage includes the essential health benefits package required under ACA section 1302(a). ACA section 1302(b) states that the DHHS Secretary shall define EHBs, so long as such benefits include the general categories listed in ACA section 1302(b).

In December 2011, the DHHS issued federal guidance for state implementation of EHBs. The guidance authorized each state to select a base–benchmark plan from a list of options, and to establish EHBs particular to that state. This guidance was codified at 45 Code of Federal Regulations (“CFR”) parts 156.100 et seq., and became effective on April 26, 2013. (78 Fed Reg. 12834, 12866.) Federal regulations permit states to select an EHB–benchmark package pursuant to 45 CFR parts 156.100 and 156.110, and require plans to provide EHBs, including prescription drug benefits pursuant to 45 CFR part 156.122.

In California, jurisdiction over “health insurance issuers” is divided between the regulation of health insurers by the California Department of Insurance (CDI) and the regulation of health plans by the Department, respectively. The Department’s jurisdiction is determined by the Knox–Keene Act, which includes state mandates for benefit coverage. Existing California law at Health and Safety Code section 1367, subdivision (i), requires health plan contracts to provide subscribers and enrollees all of the “basic health care services” included in Health and Safety Code section 1345, subsection (b). Article 5 of the Knox–Keene Act includes standards for health plan contracts, including California coverage mandates. For example, Health and Safety Code section 1367.51 requires that every individual or group health plan contract issued, amended, or renewed on or after January 1, 2000, provide coverage for certain equipment and supplies for the management and treatment of diabetes.

In response to federal guidance regarding EHBs, the California legislature enacted Health and Safety Code

section 1367.005 in September 2012. Health and Safety Code section 1367.005 selects the Kaiser plan as California’s base–benchmark plan and requires all Knox–Keene Act benefit mandates enacted on or before December 31, 2011 to be covered as part of the EHB–benchmark package. Mandated benefits included as EHBs are listed in Health and Safety Code section 1367.005(a)(2)(i)–(iv). Existing law at Health and Safety Code section 1367.005(a)(2)(v) requires that health plans cover as EHBs all “other health benefits” offered by the base–benchmark plan in the first quarter of 2012 in addition to state mandated benefits. Existing law also requires coverage for pediatric vision and oral care (Health and Safety Code section 1367.005(a)(4) and (5)), as well as mental health and habilitative services (Health and Safety Code section 1367.005(a)(2) and (3)).

The proposed regulatory:

- Requires health plans to demonstrate EHB compliance in a consistent and transparent manner by utilizing the EHB filing worksheet that cross references the state law or base–benchmark benefit associated with the EHB;
- Specifies benefits required as EHBs pursuant to state mandates;
- Specifies “other health benefits” that were provided by the base–benchmark plan in the first quarter of 2012;
- Includes a prescription drug chart to allow health plans to demonstrate compliance with federal prescription drug requirements;
- Conforms California law to federal law, which exempts QHPs from providing pediatric dental EHBs if the state Exchange (“Covered California”) contracts with a stand–alone dental plan; and
- Interprets the age limit for pediatric dental and vision benefits as available for individuals under 19 years of age, consistent with CDI, Covered California, and federal guidelines.

B. COMPARABLE FEDERAL LAW (Govt. Code § 1346.5(a)(3)(B))

The proposed regulation is consistent with and assists state implementation of federal health care reform law. Under the ACA, section 1301 (42 USC § 18021) and PHSA, section 2707 (42 USC § 300gg–6), it is required that individual and small group health plans and insurers, both inside and outside the state Exchange, provide EHBs as required by ACA section 1302(b) (42 USC § 18022). In February 2013, DHHS finalized regulations that delegate federal authority to each state to identify an EHB–benchmark plan according to criteria specified in 45 CFR parts 156.100 and 156.110. Federal regulations at 45 CFR parts 156.115 and 156.122 re-

quire health plans to comply with state EHB requirements. The filing requirement contained in the proposed regulation is also consistent with these federal laws and regulations regarding EHBs.

C. POLICY STATEMENT OVERVIEW — BROAD OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATION (Govt. Code § 1346.5(a)(3)(c))

The Department’s broad objective served by promulgating this regulation is to clarify and identify those benefits that must be covered as part of EHBs under Health and Safety Code section 1367.005. By identifying specific benefits required as part of EHBs, the Department will ensure consistent and efficient implementation of EHB requirements. The proposed regulations will benefit health plans and health consumers by providing a transparent and consistent approach to implementation of state and federal EHB requirements.

The proposed regulation is necessary because Health and Safety Code section 1367.005 generally references the base–benchmark plan selected by California, and does not specifically identify “other health benefits” offered by the Kaiser plan in addition to state mandated benefit requirements. Additionally, by requiring all health plans subject to Health and Safety Code section 1367.005 to complete and file the EHB Filing Worksheet, the Department will be able to efficiently and consistently review and ensure health plan coverage of EHBs. Including the worksheet in the text of the regulation further benefits health consumers by ensuring health plans are accountable to the public, as well as the Department for compliance with EHB coverage requirements.

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

The Department compared the proposed regulation to existing state regulations. During the process of developing this regulation, the Department conducted a search of any similar regulations on this topic and concluded that the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

ALTERNATIVES CONSIDERED

Pursuant to Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost–effective to af-

ected private persons and equally effective in implementing the statutory policy or other provision of law.

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

REPORTING REQUIREMENT

Pursuant to Government Code section 11346.3(d), the Department determined the reporting requirement contained in this proposed regulation is necessary for the implementation of health care reform provisions related to coverage of essential health benefits in California. By requiring health plans to file the EHB Filing Worksheet, the DMHC will be able to determine whether health plans are appropriately covering benefits required under the ACA and state law. The proposed regulation and reporting requirement benefits health plans and consumers by streamlining and clarifying those requirements. Because the proposed regulation helps to ensure health consumers in the individual and small group markets have access to EHBs, the proposed reporting requirement is necessary for the health of people of the State of California.

SUMMARY OF FISCAL IMPACT

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

DETERMINATIONS

The Department has made the following initial determinations:

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

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

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

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

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

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

The Department has determined the regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

The Department has determined the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The Department has determined that this regulation will have no cost or savings in federal funding to the state.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS (Government Code § 11346.3(b))

A. Creation or Elimination of Jobs Within the State of California

The proposed additions to Title 28 of the California Code of Regulations interpret, implement, and make specific state law enacted by Assembly Bill 1453, specifically Health and Safety Code section 1367.005, which requires individual and small group health plans to provide coverage for benefits identified as “essential health benefits.” By enacting AB 1453, the California Legislature, in turn, was implementing EHB requirements imposed by the federal government through the ACA. While the broader impacts of the ACA and state law under federal health care reform have been the subject of much speculation, the proposed regulation, which identifies and clarifies specific benefits included in the general categories of required benefits in Health and Safety Code section 1367.005, will not create or eliminate jobs within the State of California.

B. Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

This proposed addition to the California Code of Regulations will neither create new businesses nor eliminate existing businesses. The state is required by federal guidelines and regulations under the ACA to select an EHB–benchmark package. The state complied with these requirements by enacting AB 1453, enacting Health and Safety Code section 1367.005, and selecting a base–benchmark plan. These regulations merely specify benefits required by Health and Safety Code section 1367.005, and do not create any new requirements for businesses in California. Additionally, these regulations only apply to health plans licensed under the Knox–Keene Act. Individual and small group health plans are subject to federal law under the ACA, and are required to comply with state and federal law related to EHBs. Therefore, these regulations create no additional requirements that would affect the creation of new or elimination of existing businesses within the State of California.

C. Expansion of Businesses Currently Doing Business Within the State of California

This regulation is intended to clarify and make specific the existing State law for health plans under the Knox–Keene Act. These plans are subject to federal law under the ACA, and are required to comply with state and federal rules related to providing coverage for EHBs. Therefore, the Department determined this regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

D. Benefits of the Regulation to the Health and Welfare of California residents, worker safety, and the State’s Environment

The proposed regulatory action will provide health consumers with a transparent mechanism to determine those benefits that are required to be covered as essential health benefits in California. Plan enrollees will also have better access to EHBs because the requirements of the law will be clear and transparent for plans. By clarifying the specific benefits that are required as part of the California EHB–benchmark plan, this regulation ensures consistency between health plans and health plan contracts, which allows consumers to better compare options both inside and outside the California Exchange.

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

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

File# 2013-0924-04
BOARD OF ACCOUNTANCY
 Retired Status

This rulemaking action by the California Board of Accountancy (BOA) adopts five sections and amends three sections in Title 16 of the California Code of Regulations. This rulemaking is designed to establish, pursuant to AB 431, Statutes of 2011, a system for placing a license in a retired status for certified public accountants and public accountants who are not actively engaged in the practice of public accountancy or any activity which requires them to be licensed by BOA. This rulemaking implements the requirements for obtaining and maintaining such a license in retired status. It also establishes how a license may be restored to active status.

Title 16
 California Code of Regulations
 ADOPT: 15, 15.1, 15.2, 15.3, 15.4
 AMEND: 70, 71, 80.1, 80.2
 Filed 10/16/2013
 Effective 01/01/2014
 Agency Contact: Matthew Stanley (916) 561-1792

File# 2013-0910-01
BOARD OF EDUCATION
 Special Education

The Board of Education is repealing section 3052 of title 5 of the California Code of Regulations as a change without regulatory effect to comply with section 56523 of the Education Code which states that the "Superintendent shall repeal those regulations governing the use of behavioral interventions with individuals with exceptional needs receiving special education and related

services that are no longer supported by statute, including Section 3052...of Title 5 of the California Code of Regulations...."

Title 5
 California Code of Regulations
 REPEAL: 3052
 Filed 10/16/2013
 Agency Contact: Debra Thacker (916) 319-0642

File# 2013-0830-01
BOARD OF EQUALIZATION
 Auto Auctioneers and Dismantlers

The California Board of Equalization is adopting one section in Title 18 of the California Code of Regulations. This section is adopted in response to Assembly Bill 2618 (Stats. 2012, ch. 756) that is intended to create a presumption that tax applies to sales of specified vehicles by persons and licensed dismantlers at auctions and only permitting such persons to accept resale certificates from persons who certify that they are licensed, registered, regulated, certificated, or otherwise authorized dealers, dismantlers, automotive repairers, or scrap metal processors to mitigate a significant opportunity to avoid the sales and use tax. The new regulation prescribes the form of the resale certificate that may be taken and the alternative methods that may be used to rebut the presumption.

The regulation also explains when a resale certificate is considered timely when taken in good faith, and provides notice regarding a purchaser's tax liability, under existing law, when property is purchased with a resale certificate and the purchaser subsequently makes any storage, use, or other consumption of the property, other than retention, demonstration, or display while holding it for resale in the regular course of business; or the purchaser knows that the property is not to be resold in the regular course of business.

Title 18
 California Code of Regulations
 ADOPT: 1566.1
 Filed 10/14/2013
 Effective 01/01/2014
 Agency Contact:
 Richard E. Bennion (916) 445-2130

File# 2013-1004-01
BUREAU OF AUTOMOTIVE REPAIR
 Vehicle Registration Amnesty Program

In this "changes without regulatory effect" filing, the Bureau of Automotive Repair repeals a regulation entitled "Vehicle Registration Amnesty Program." This regulation is repealed since Vehicle Code section 9565, which authorized the amnesty program, was repealed as of January 1, 2013.

Title 16
California Code of Regulations
REPEAL: 3340.38
Filed 10/16/2013
Agency Contact: Vincent Somma (916)403-8560

File# 2013-0903-15
CALIFORNIA ARCHITECTS BOARD
Intern Development Program Guidelines Alignment

The California Architects Board (Board) amended sections 109 and 117 of title 16 of the California Code of Regulations. The amendment to section 109 will update the incorporation by reference of the National Council of Architectural Registration Board's (NCARB) Intern Development Program Guidelines from a July 2011 version to the current November 2012 version. The amendment to section 117 will allow the Board to recognize an academic internship that has been approved by NCARB toward additional experience credit for work performed as part of an intern development program.

Title 16
California Code of Regulations
AMEND: 109, 117
Filed 10/09/2013
Effective 01/01/2014
Agency Contact: Timothy Rodda (916)575-7217

File# 2013-1011-02
DEPARTMENT OF FOOD AND AGRICULTURE
Asian Citrus Psyllid Interior Quarantine

This emergency regulatory action by the Department of Food and Agriculture amends section 3435(b) of Title 3 of the California Code of Regulations to expand the quarantine area for the Asian Citrus Psyllid (ACP), *Diaphorina citri* in Fresno and Tulare Counties by approximately 45 square miles in Dinuba area and approximately 167 square miles in Exeter, Porterville and Strathmore areas. With this amendment, the total area under regulation is approximately 46,089 square miles.

Title 3
California Code of Regulations
AMEND: 3435(b)
Filed 10/14/2013
Effective 10/14/2013
Agency Contact: Stephen S. Brown (916)654-1017

File# 2013-0829-03
DEPARTMENT OF PUBLIC HEALTH
Radiologic Technology Act Regulations

This rulemaking action by the California Department of Public Health amends the Department's radiologic

technology regulations, which are found within Title 17 of the California Code of Regulations and have not been significantly revised since 1985. This action implements a host of recommendations made by the Radiologic Technology Certification Committee (RTCC) pertaining to X-ray schools, harmonizes the regulations with recent legislation, and enables the Department to properly enforce rules for radiologic technologist and X-ray technician training and education.

Title 17
California Code of Regulations
ADOPT: 30400, 30409, 30411, 30412, 30413, 30413.5, 30414, 30415, 30416, 30417, 30418, 30419, 30420, 30467, 30468 AMEND: 30403, 30403.5, 30403.8, 30404, 30405, 30406, 30408, 30410, 30421, 30422, 30423, 30424, 30425, 30427.2, 30435, 30436, 30437, 30440, 30442, 30443, 30444, 30446, 30447, 30450, 30451, 30455.1, 30456.6, 30460, 30461, 30462, 30463, 30464, 30465, 30466 REPEAL: 30400.5, 30400.40, 30400.60, 30400.85, 30400.95, 30420, 30427, 30428, 30441, 30445, 30445.1, 30452, 30467, 30468
Filed 10/11/2013
Effective 10/11/2013
Agency Contact: Linda M. Cortez (916)440-7807

File# 2013-0905-01
DEPARTMENT OF TOXIC SUBSTANCES
CONTROL
Hazardous Waste Source Reduction Requirements

The Department of Toxic Substances Control amended sections 67100.1, 67100.8, 67100.9, and the title of Article 1 of Chapter 13 of title 22 of the California Code of Regulations concerning hazardous waste source reduction requirements. These changes were submitted to the Office of Administrative Law as changes without regulatory effect pursuant to section 100 of title 1 of the California Code of Regulations to conform to changes made in the Health and Safety Code by Senate Bill 1018, Chapter 39, Statutes of 2012.

Title 22
California Code of Regulations
AMEND: 67100.1, 67100.8, 67100.9
Filed 10/16/2013
Agency Contact: Bob Gipson (916)327-4061

File# 2013-1001-02
DIVISION OF BOATING AND WATERWAYS
Quagga and Zebra Mussel Infestation Prevention Program

This emergency rulemaking by the Division of Boating and Waterways amends Title 14 of the California Code of Regulations by adopting new sections which

clarify the procedures related to administering the mussel fee intended to cover the costs of dreissenid mussel prevention activities. This action implements sections 675 and 676 of the Harbors and Navigation Code, which were effective as of January 1, 2013.

Title 14
 California Code of Regulations
 ADOPT: 5200, 5201, 5202, 5203, 5204, 5205, 5206, 5207, 5208, 5209, 5210, 5211, 5300, 5301, 5302, 5303, 5304, 5305, 5306, 5307
 Filed 10/10/2013
 Effective 10/10/2013
 Agency Contact: Joleane King (916) 327-1829

File# 2013-0829-02
FISH AND GAME COMMISSION
 Commercial Fishing Activity Reports and Logbooks

In this regulatory action, the Commission is amending sections 190 and 195 of title 14 of the California Code of Regulations (CCR) to clarify requirements related to commercial fishing activity records. The amendments delete the existing "Skipper's Log Book" forms incorporated by reference in section 195 and replace them with updated forms entitled "Commercial Passenger Fishing Vessel Log." As part of the regulatory changes, these updated forms will be included in Appendix A of the CCR. The amendments further clarify when the logbook forms must be completed, specify that logs must be completed even for the months during which no fishing activity occurred, and require that logbooks disclose whether the fishing trip involved paying or non-paying customers.

Title 14
 California Code of Regulations
 AMEND: 190, 195
 Filed 10/11/2013
 Effective 01/01/2014
 Agency Contact: Sheri Tiemann (916) 654-9872

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN May 15, 2013 TO
 October 16, 2013**

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

Title 2
 10/03/13 AMEND: 18521.5
 10/03/13 ADOPT: 18421.5
 10/03/13 AMEND: 18239
 10/03/13 AMEND: Amend and renumber sections: 7285.0 (11000), 7285.1 (11001), 7285.2 (11002), 7285.4 (11003), 7285.7 (11004), 7286.0 (11005), 7286.1 (11005.1), 7286.3 (11006), 7286.4 (11007), 7286.5 (11008), 7286.6 (11009), 7286.7(11010), 7286.8 (11011), 7287.0 (11013), 7287.1 (11014), 7287.2 (11015), 7287.3 (11016), 7287.4 (11017), 7287.6 (11019), 7287.7 (11020), 7287.8 (11021), 7287.9(11022), 7288.0 (11023), 7289.4 (11027), 7289.5 (11028), 7290.6 (11029), 7290.7 (11030), 7290.8 (11031), 7290.9 (11032), 7291.0 (11033), 7291.1 (11031), 7291.2 (11035), 7291.3 (11036), 7291.4 (11037), 7291.6 (11039), 7291.7 (11040), 7291.8 (11041), 7291.9 (11042), 7291.10 (11043), 7291.11 (11044), 7291.12 (11045), 7291.13 (11046), 7291.14 (11047), 7291.16 (11049), 7291.17 (11050), 7291.18 (11051), 7292.0 (11052), 7292.1 (11053), 7292.2 (11054), 7292.3 (11055), 7292.4 (11056), 7292.6 (11058), 7293.0 (11059), 7293.1 (11060), 7293.2 (11061), 7293.3(11062), 7293.4 (11063), 7293.5 (11064), 7293.6 (11065), 7293.7 (11066), 7293.8 (11067), 7293.9 (11068), 7294.0 (11069), 7294.1 (11070), 7294.2 (11071), 7295.0 (11074), 7295.1 (11075), 7295.2 (11076), 7295.3 (11077), 7295.4 (11078), 7295.5 (11079), 7295.6 (11080), 7295.7 (11081), 7295.8 (11082), 7295.9 (11083), 7296.0 (11084), 7296.1 (11085), 7296.2 (11086), 7297.0 (11087), 7297.1 (11088), 7297.2 (11089), 7297.3 (11090), 7297.4 (11091), 7297.5 (11092), 7297.6 (11093), 7297.7(11094), 7297.9 (11096), 7297.10 (11097), 7297.11 (11098), 8101 (11099), 8102 (11100), 8102.5 (11101), 8103 (11102), 8104 (11103), 8106 (11104), 8107 (11105), 8109 (11107), 8112 (11108), 8113 (11109), 8114 (11110), 8115 (11111), 8117 (11113), 8117.5 (11114), 8118 (11115), 8119 (11116), 8120 (11117), 8200 (11118),

8201 (11119), 8202 (11120), 8202.5 (11121), 8203 (11122), 8205 (11124), 8300 (11125), 8301 (11126), 8302 (11127), 8303 (11128), 8310 (11130), 8311 (11131), 8312 (11132), 8400 (11133), 8401 (11134), 8402 (11135), 8403 (11136), 8500 (11137), 8501 (11138), 8503 (11140), 8504 (11141); Renumber sections: 7287.5 (11018), 7288.1 (11024), 7288.2 (11025), 7288.3 (11026), 7291.5 (11038), 7292.5 (11057), 7294.3 (11072), 7294.4 (11073), 8108 (11106), 8116 (11112), 8204 (11123), 8304 (11129), 8502 (11139) REPEAL: 7285.3, 7285.5, 7285.6, 7286.9, 7291.15, 7297.8, 7400, 7401, 7402, 7403, 7404, 7405, 7406, 7407, 7408, 7409, 7410, 7411, 7412, 7413, 7414, 7415, 7416, 7417, 7418, 7419, 7420, 7421, 7422, 7423, 7424, 7425, 7426, 7427, 7428, 7429, 7430, 7431, 7432, 7433, 7434, 7435, 7436, 7437, 7438

09/23/13 REPEAL: 58700

09/23/13 REPEAL: 53200

09/23/13 REPEAL: 53400

09/23/13 REPEAL: 57100

09/19/13 AMEND: 2970

09/16/13 REPEAL: 56500

09/16/13 REPEAL: 59580

09/12/13 REPEAL: 56400

09/12/13 REPEAL: 52700

09/12/13 REPEAL: 54500

09/09/13 AMEND: 649.56

08/23/13 ADOPT: 1859.90.3 AMEND: 1859.2, 1859.51, 1859.61, 1859.90.2, 1859.90.4, 1859.104, 1859.164.2, 1859.184.1

08/12/13 ADOPT: 579, 579.1, 579.2, 579.4, 579.24

07/24/13 AMEND: 599.500, 599.508

07/23/13 AMEND: 35101

06/25/13 ADOPT: 1859.97 AMEND: 1859.2, Form SAB 50-02, 1859.90.2

06/24/13 AMEND: 18247.5, 18413, 18427.1

06/03/13 AMEND: 43000, 43001, 43002, 43003, 43004, 43005, 43006, 43007, 43008, 43009

05/16/13 ADOPT: 59740

05/15/13 AMEND: 599.500, 599.501, 599.502, 599.508

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10/14/13 AMEND: 3435(b)

10/07/13 AMEND: 3435(b)

09/30/13 AMEND: 3435(b)

09/20/13 AMEND: 3435(b)

09/12/13 ADOPT: 2320.3, 2320.4(a), 2320.4(b), 2320.4(c), 2324, 2325 AMEND: 2302, 2304, 2304(b)(1), 2304(d), 2322, 2322.3

09/12/13 ADOPT: 3591.11

09/10/13 AMEND: 3434(b), 3434(c)

09/06/13 AMEND: 3589(a)

08/12/13 AMEND: 3435(b)

08/09/13 AMEND: 3423(b)

07/30/13 AMEND: 3435(b)

07/11/13 AMEND: 3591.12(a)

07/08/13 AMEND: 1701, 1701.1, 1701.2, 1702, 1703.2, 1703.3 REPEAL: 1703.4, 1703.5

07/02/13 AMEND: 1310

06/26/13 AMEND: 2751(b)

06/19/13 AMEND: 3435(b)

06/19/13 AMEND: 3435(b)

05/23/13 ADOPT: 6558, 6577, 6880, 6884, 6886 AMEND: 6452, 6452.2, 6452.4 (renumbered to 6881), 6890 (renumbered to 6864)

05/22/13 AMEND: 3434(b)

05/20/13 AMEND: 3434(b)

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10/07/13 AMEND: 10030, 10031, 10032, 10033, 10034, 10035, 10036

10/07/13 ADOPT: 8035.5

09/27/13 ADOPT: 12014

09/24/13 AMEND: 8035

09/03/13 AMEND: 4180, 4181

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

08/06/13 ADOPT: 2086, 2086.1, 2086.5, 2086.6, 2086.7, 2086.8, 2086.9, 2087, 2087.5, 2087.6, 2088, 2088.6, 2089, 2089.5, 2089.6, 2090, 2090.5, 2090.6, 2091, 2091.5, 2091.6, 2092, 2092.5, 2092.6, 2093

07/31/13 AMEND: 12357, 12463, 12464

07/25/13 AMEND: 5170, 5190, 5205, 5212, 5230, 5250

07/22/13 AMEND: 8072

07/22/13 AMEND: 10322, 10325, 10326

07/08/13 ADOPT: 5342, 5343, 5344, 5345, 5346, 5347, 5348

06/03/13 AMEND: 12101, 12120, 12122, 12126, 12130, 12132, 12140, 12142, 12200, 12200.3, 12200.5, 12200.6, 12200.10B, 12200.14, 12200.20, 12202, 12203, 12203A, 12203.2, 12203.3, 12205.1, 12218, 12218.7, 12218.8, 12218.9, 12220, 12220.3, 12220.5, 12220.6,

	12220.14, 12220.20, 12222, 12223, 12225.1, 12233, 12235, 12238, 12239, 12301, 12301.1, 12302, 12303, 12304, 12305, 12309, 12310, 12342, 12345, 12349, 12350, 12351, 12352, 12354, 12357, 12358, 12359, 12370, 12372, 12401, 12402, 12403, 12404, 12464, 12480, 12492, 12496, 12500, 12503, 12505, 12508, 12591	09/30/13	ADOPT: 9785.5, 9792.6.1, 9792.9.1, 9792.10.1, 9792.10.2, 9792.10.3, 9792.10.4, 9792.10.5, 9792.10.6, 9792.10.7, 9792.10.8, 9792.10.9
06/03/13	AMEND: 5170, 5190, 5205, 5212, 5230, 5250		AMEND: 9785, 9792.6, 9792.9, 9792.10, 9792.12
05/23/13	ADOPT: 12364 AMEND: 12004	09/30/13	ADOPT: 10205, 10205.12, 10206, 10206.1, 10206.2, 10206.3, 10206.4, 10206.5, 10206.14, 10206.15, 10207, 10208
05/22/13	ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060	09/24/13	ADOPT: 9789.12.1, 9789.12.2, 9789.12.3, 9789.12.4, 9789.12.5, 9789.12.6, 9789.12.7, 9789.12.8, 9789.12.9, 9789.12.10, 9789.12.11, 9789.12.12, 9789.12.13, 9789.12.14, 9789.12.15, 9789.13.1, 9789.13.2, 9789.13.3, 9789.14, 9789.15.1, 9789.15.2, 9789.15.3, 9789.15.4, 9789.15.5, 9789.15.6, 9789.16.1, 9789.16.2, 9789.16.3, 9789.16.4, 9789.16.5, 9789.16.6, 9789.16.7, 9789.16.8, 9789.17.1, 9789.17.2, 9789.18.1, 9789.18.2, 9789.18.3, 9789.18.4, 9789.18.5, 9789.18.6, 9789.18.7, 9789.18.8, 9789.18.9, 9789.18.10, 9789.18.11, 9789.18.12, 9789.18.19
05/16/13	AMEND: 10192, 10193, 10194, 10195, 10196, 10197, 10198		
05/16/13	ADOPT: 5255, 5256 AMEND: 5170, 5230, 5250, 5560, 5580	09/23/13	ADOPT: 10451.1, 10451.2, 10451.3, 10451.4, 10498, 10538, 10606.5, 10608.5, 10774.5, 10957, 10957.1, 10959 AMEND: 10250, 10260, 10300, 10301, 10408, 10450, 10582.5, 10606, 10608, 10622, 10770, 10770.1, 10770.5, 10770.6, 10845, 10886
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10/16/13	REPEAL: 3052	09/17/13	AMEND: 5194(g)(2)(Q)
09/25/13	AMEND: 11530, 11531, 11532	09/16/13	ADOPT: 37, 10159 AMEND: 1, 11, 11.5, 13, 14, 17, 26, 30, 31.3, 31.5, 31.7, 32, 33, 34, 35, 35.5, 36, 38, 100, 104, 105, 106, 109, 110, 112, 117, 10160 REPEAL: 31.2
09/25/13	AMEND: 20101, 20107, 20190	09/16/13	AMEND: 344, 344.1
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09/25/13	AMEND: 11530, 11531, 11532	08/27/13	AMEND: 5155
09/17/13	AMEND: 4600, 4610, 4630, 4631, 4633, 4650, 4611, 4620, 4621, 4622, 4632, 4640	08/22/13	AMEND: 32147, 32380, 32802
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09/05/13	AMEND: 19816, 19828.4	08/13/13	ADOPT: 9795.1.5, 9795.1.6, 9795.5 AMEND: 9795.1, 9795.3
08/12/13	AMEND: 58312	08/13/13	ADOPT: 15209 AMEND: 15201, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496, 15497
08/12/13	AMEND: 80003, 80004, 80048.6	08/01/13	AMEND: 5199(g)(3)(B)
07/10/13	AMEND: 80021.1, 80023, 80023.1, 80023.2, 80025.5 REPEAL: 80024.1, 80024.2, 80024.2.1, 80024.3.2, 80024.4, 80024.5		
06/12/13	ADOPT: 19847 AMEND: 19816, 19816.1, 19818, 19824, 19829, 19837.3		
06/05/13	AMEND: 19816, 19816.1, 19839		
05/23/13	ADOPT: 30000.5, 30010, 30040, 30040.2, 30040.6, 30041, 30041.5, 30042, 30042.5, 30044.5 AMEND: 30000, 30001, 30002, 30005, 30009, 30020, 30021, 30022, 30030, 30032, 30033		
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10/03/13	ADOPT: 11770, 11771.1, 11771.3, 11772, 11773		
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07/23/13 AMEND: 1933, 5541, 5543, 5559, 5600, 6170
 07/02/13 AMEND: 3329
 07/01/13 ADOPT: 9792.5.4, 9792.5.5, 9792.5.6, 9792.5.7, 9792.5.8, 9792.5.9, 9792.5.10, 9792.5.11, 9792.5.12, 9792.5.13, 9792.5.14, 9792.5.15.
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 07/01/13 AMEND: 5197
 07/01/13 AMEND: 9795.1, 9795.3
 07/01/13 ADOPT: 9785.5, 9792.6.1, 9792.9.1, 9792.10.1, 9792.10.2, 9792.10.3, 9792.10.4, 9792.10.5, 9792.10.6, 9792.10.7, 9792.10.8, 9792.10.9
 AMEND: 9785, 9792.6, 9792.9, 9792.10, 9792.12
 07/01/13 ADOPT: 37, 10159 AMEND: 1, 11, 11.5, 14, 17, 30, 31.2, 31.7, 33, 35, 35.5, 36, 38, 100, 105, 106, 10160
 06/26/13 ADOPT: 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36 AMEND: 9813.1, 10116.9, 10117, 10118, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 REPEAL: 10133.51, 10133.52
 06/26/13 ADOPT: 10206, 10206.1, 10206.2, 10206.3, 10206.4, 10206.5, 10206.14, 10206.15, 10207, 10208 AMEND: 10205, 10205.12
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 09/30/13 ADOPT: 6408, 6410, 6450, 6452, 6454, 6470, 6472, 6474, 6476, 6478, 6480, 6482, 6484, 6486, 6490, 6492, 6494, 6496, 6498, 6500, 6502, 6504, 6506, 6508, 6510, 6600, 6602, 6604, 6606, 6608, 6610, 6612, 6614, 6616, 6618, 6620 REPEAL: 6410
 09/30/13 ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6536, 6538
 09/30/13 ADOPT: 6800, 6802, 6804, 6806
 09/19/13 ADOPT: 6458
 09/09/13 ADOPT: 2562.1, 2562.2, 2562.3, 2562.4
 08/27/13 AMEND: 2690, 2690.1, 2690.2
 08/05/13 AMEND: 2498.5
 07/31/13 AMEND: 2498.6
 07/17/13 AMEND: 2498.5
 07/16/13 AMEND: 2498.6
 07/15/13 ADOPT: 6650, 6652, 6654, 6658, 6660, 6662, 6664, 6666, 6668, 6670
 07/10/13 ADOPT: 6410, 6420, 6422, 6424, 6440, 6442, 6444
 07/03/13 AMEND: 2548.3, 2548.19, 2548.21, 2548.24, 2548.25
 06/27/13 ADOPT: 6456
 06/25/13 AMEND: 2698.401
 06/13/13 ADOPT: 2594, 2594.1, 2594.2, 2594.3, 2594.4, 2594.5, 2594.6, 2594.7
 05/20/13 AMEND: 2698.95(a)
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 08/21/13 ADOPT: 31.25 REPEAL: 101.1
 08/21/13 ADOPT: 31.26 REPEAL: 101.2
 08/21/13 AMEND: 31.7
 08/06/13 AMEND: 1955
 07/08/13 AMEND: 1005, 1007, 1008
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 09/23/13 REPEAL: 3000
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 08/15/13 AMEND: 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711
 07/31/13 AMEND: 1968.2, 1968.5, 1971.1, 1971.5
 07/24/13 AMEND: 599
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 10/11/13 AMEND: 190, 195
 10/10/13 ADOPT: 5200, 5201, 5202, 5203, 5204, 5205, 5206, 5207, 5208, 5209, 5210, 5211, 5300, 5301, 5302, 5303, 5304, 5305, 5306, 5307
 10/02/13 AMEND: 401 REPEAL: 480
 10/02/13 AMEND: 3550.5
 09/19/13 AMEND: 502
 09/16/13 AMEND: 510
 09/10/13 AMEND: 313
 09/10/13 AMEND: 300
 09/10/13 AMEND: 1670
 08/27/13 AMEND: 703
 08/27/13 AMEND: 670 REPEAL: 678
 08/19/13 AMEND: 1299.03(b)(2)(A)
 08/06/13 AMEND: 13055
 07/22/13 ADOPT: 18751.2.2, 18751.2.3 AMEND: 18751.2, 18751.2.1
 06/28/13 AMEND: 228
 06/26/13 AMEND: 1059(a)
 06/25/13 AMEND: 354, 360, 361, 362, 363, 364, 708.9
 06/19/13 AMEND: 816.01(c)(3), 826.01(c)(2), 870.21(d)
 06/17/13 AMEND: 7.50

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09/25/13 REPEAL: 7001
 09/24/13 AMEND: 3044, 3190, 3282, 3335
 08/27/13 ADOPT: 8125
 08/06/13 AMEND: 2000
 07/30/13 AMEND: 3075
 07/29/13 AMEND: 3000, 3190, 3213, 3334
 05/16/13 AMEND: 3173.2, 3174

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10/16/13 REPEAL: 3340.38
 10/16/13 ADOPT: 15, 15.1, 15.2, 15.3, 15.4
 AMEND: 70, 71, 80.1, 80.2
 10/09/13 AMEND: 109, 117
 09/30/13 AMEND: 2475
 09/27/13 ADOPT: 2030.05, 2030.3, 2032.05,
 2032.15, 2032.25, 2032.35 AMEND:
 2030, 2030.1, 2030.2, 2032.1, 2032.2,
 2032.3, 2032.4, 2037
 09/23/13 REPEAL: 3526
 09/17/13 AMEND: 2520.5, 2523.2, 2577.6,
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 09/10/13 ADOPT: 80.1, 80.2, 87.1 AMEND: 12,
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 09/09/13 AMEND: 103
 08/08/13 AMEND: 1920, 1937.11
 08/07/13 AMEND: 811, 832.05, 832.06, 832.35
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 08/07/13 ADOPT: 1399.620, 1399.621, 1399.622,
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 08/07/13 AMEND: 1399.501, 1399.502,
 1399.503, 1399.506, 1399.507,
 1399.507.5, 1399.511, 1399.512,
 1399.520, 1399.521, 1399.521.5,
 1399.523, 1399.523.5, 1399.526,
 1399.527, 1399.530, 1399.540,
 1399.543, 1399.545, 1399.547,
 1399.557, 1399.570, 1399.571,
 1399.572, 1399.610, 1399.612,
 1399.616, 1399.617, 1399.618, 1399.619
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 08/07/13 AMEND: 811, 832.05, 832.06, 832.35
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 08/07/13 ADOPT: 1399.620, 1399.621, 1399.622,
 1399.623
 08/07/13 AMEND: 1399.501, 1399.502,
 1399.503, 1399.506, 1399.507,
 1399.507.5, 1399.511, 1399.512,
 1399.520, 1399.521, 1399.521.5,
 1399.523, 1399.523.5, 1399.526,
 1399.527, 1399.530, 1399.540,
 1399.543, 1399.545, 1399.547,
 1399.557, 1399.570, 1399.571,
 1399.572, 1399.610, 1399.612,

1399.616, 1399.617, 1399.618, 1399.619
 REPEAL: 1399.512

07/30/13 REPEAL: 367.7
 07/24/13 ADOPT: 1398.15
 07/23/13 AMEND: 2502, 2516, 2525, 2526,
 2526.1, 2527, 2529, 2530, 2535, 2562,
 2575, 2580, 2581, 2581.1, 2582, 2584,
 2585, 2885.1
 07/16/13 AMEND: 4154
 07/15/13 ADOPT: 1355.45
 07/15/13 AMEND: 1833
 06/26/13 AMEND: 1600
 06/25/13 AMEND: 4102, 4114, 4122, 4141, 4163,
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 06/20/13 AMEND: 1379.50
 06/10/13 ADOPT: 5.5, 18, 19, 20, 21, 22 AMEND:
 21 (renumbered to 36.1), 26, 98
 06/06/13 AMEND: 2006
 05/20/13 AMEND: 4402
 05/17/13 ADOPT: 3340.4 AMEND: 3340.1,
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10/11/13 ADOPT: 30400, 30409, 30411, 30412,
 30413, 30413.5, 30414, 30415, 30416,
 30417, 30418, 30419, 30420, 30467,
 30468 AMEND: 30403, 30403.5,
 30403.8, 30404, 30405, 30406, 30408,
 30410, 30421, 30422, 30423, 30424,
 30425, 30427.2, 30435, 30436, 30437,
 30440, 30442, 30443, 30444, 30446,
 30447, 30450, 30451, 30455.1, 30456.6,
 30460, 30461, 30462, 30463, 30464,
 30465, 30466 REPEAL: 30400.5,
 30400.40, 30400.60, 30400.85,
 30400.95, 30420, 30427, 30428, 30441,
 30445, 30445.1, 30452, 30467, 30468
 10/02/13 AMEND: 54342(a)(29)
 09/18/13 ADOPT: 100900, 100901, 100902,
 100903, 100904
 09/10/13 AMEND: 52086
 08/12/13 AMEND: 2641.55
 08/12/13 ADOPT: 30456, 30456.1, 30456.2,
 30456.4, 30456.6, 30456.8, 30456.10,
 30456.12
 07/16/13 ADOPT: 7000, 7002, 7004, 7006, 7008,
 7010, 7012, 7014, 7016
 07/01/13 AMEND: 100000
 06/26/13 AMEND: 91022
 06/26/13 AMEND: 1230, 2641.57
 06/24/13 ADOPT: 95943 AMEND: 95802, 95830,
 95833, 95910, 95911, 95912, 95913,
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 06/13/13 ADOPT: 56068, 56069, 56070, 56071,
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09/23/13	ADOPT: 2000		
08/28/13	AMEND: 1703		
08/28/13	AMEND: 1703		
07/24/13	AMEND: 462.040		
07/16/13	AMEND: 4601, 4603, 4604, 4605		
07/11/13	AMEND: 1532, 1533.1, 1533.2, 1534, 1535, 1598	08/19/13	ADOPT: 70438.2
06/25/13	ADOPT: 2000	05/30/13	AMEND: 70723, 71523, 71835, 72535, 73525, 74723, 75051, 75335, 76539, 76874, 76919, 78429, 79331, 79781, 79795, 79805
05/31/13	ADOPT: 17052.6		
05/28/13	AMEND: 1685.5	05/22/13	ADOPT: 64651.12, 64651.13, 64651.15, 64651.48, 64651.52, 64651.54, 64651.61, 64651.62, 64654.8, 64656.5, 64664.2, 64665.5 AMEND: 63011, 63012, 63020, 63021, 63052, 64650, 64651.88, 64652, 64652.5, 64653, 64655, 64656, 64660, 64662, 64663, 64664, 64666 REPEAL: 64657, 64657.10, 64657.20, 64657.30, 64657.40, 64657.50
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07/17/13	AMEND: 557.4, 557.5, 557.8, 557.13, 557.23, 561.2, 567, 567.8, 573, 574.4, 575.1, 575.3, 575.6, 575.8, 575.13, 575.16, 577.2, 578.6, 591.6, 592.1, 592.2, 593.1, 594.3, 594.4, 594.5, 595.5 and 596	05/15/13	ADOPT: 66274.1, 66274.2, 66274.3, 66274.4, 66274.5, 66274.7, 66274.8
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08/28/13	ADOPT: 1240, 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208		
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09/23/13	ADOPT: 2653, 2654, 2655, 2656, 2657, 2658	Title 23	
06/24/13	ADOPT: 2653, 2654, 2655, 2656, 2657, 2658	08/07/13	ADOPT: 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016
Title 22		08/07/13	ADOPT: 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016
10/16/13	AMEND: 67100.1, 67100.8, 67100.9	07/26/13	ADOPT: 3979.6
10/02/13	AMEND: 97212	07/03/13	AMEND: 595
10/01/13	AMEND: 69501.3(b), 69509.1(a), 69509.1(c)	07/01/13	ADOPT: 3007
09/23/13	AMEND: 97232	06/24/13	ADOPT: 3919.13
09/18/13	AMEND: 51516.1	06/04/13	ADOPT: 3939.45
09/05/13	AMEND: 66261.33	06/03/13	AMEND: 5000
08/28/13	ADOPT: 69501, 69501.1, 69501.2, 69501.3, 69501.4, 69501.5, 69502, 69502.1, 69502.2, 69502.3, 69503, 69503.1, 69503.2, 69503.3, 69503.4, 69503.5, 69503.6, 69503.7, 69504, 69504.1, 69505, 69505.1, 69505.2, 69505.3, 69505.4, 69505.5, 69505.6, 69505.7, 69505.8, 69505.9, 69506, 69506.1, 69506.2, 69506.3, 69506.4, 69506.5, 69506.6, 69506.7, 69506.8, 69506.9, 69506.10, 69507, 69507.1, 69507.2, 69507.3, 69507.4, 69507.5, 69507.6, 69508, 69509, 69509.1, 69510	Title 27	
08/28/13	ADOPT: 69501, 69501.1, 69501.2, 69501.3, 69501.4, 69501.5, 69502, 69502.1, 69502.2, 69502.3, 69503, 69503.1, 69503.2, 69503.3, 69503.4,	08/08/13	AMEND: 25805
		07/11/13	AMEND: 25805
		06/25/13	AMEND: 25805
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		10/07/13	ADOPT: 1300.67.003
		07/05/13	ADOPT: 1300.67.005
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