



# California Regulatory Notice Register

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JULY 21, 2017

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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. FAIR POLITICAL  
PRACTICES COMMISSION**

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

**CONFLICT-OF-INTEREST CODES**

**AMENDMENT**

STATE AGENCY: California Travel and Tourism Commission

MULTI-COUNTY: Sacramento County Office of Education

A written comment period has been established commencing on July 21, 2017, and closing on September 4, 2017. Written comments should be directed to the Fair Political Practices Commission, Attention Cesar Cuevas, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

The Executive Director of the Commission, upon her or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than September 4, 2017. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

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

**EFFECT ON HOUSING COSTS  
AND BUSINESSES**

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

**AUTHORITY**

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

**REFERENCE**

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

**CONTACT**

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

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

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the re-

spective agency. Requests for copies from the Commission should be made to Cesar Cuevas, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## **TITLE 2. GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT**

### **NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT**

NOTICE IS HEREBY GIVEN that the Governor's Office of the Business and Economic Development (GO-Biz) 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.

GO-Biz 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 includes the creation of new employee positions and technical changes to reflect the current organizational structure of GO-Biz. 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 September 4, 2017, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

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

GO-Biz 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.

GO-Biz 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, GO-Biz 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:

Van Nguyen  
1325 J Street, 18th Floor  
Sacramento, CA 95814  
916-322-2984  
van.nguyen@gov.ca.gov

## **TITLE 4. CALIFORNIA HORSE RACING BOARD**

### **NOTICE OF PROPOSAL TO AMEND RULE 1844. AUTHORIZED MEDICATION**

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

#### **PROPOSED REGULATORY ACTION**

The Board proposes to amend Rule 1844, Authorized Medication. The proposed amendment will change subsection 1844(e)(6) to provide that no clenbuterol, or its metabolites or analogs, may be present in the official urine test sample for any horse competing in a quarter horse race. The proposed amendment will also modify subsection 1844(e)(7) to replace the drug Omeprazole with the drug Detomidine; change subsection 1844(e)(11) to exempt a filly or mare in foal from the al-

lowed level of testosterone; modify subsection 1844(f)(14) to change the allowed level of Xylazine; add new subsections 1844(f)(17) through 1844(f)(21) to allow for the presence of specified levels of Ceti-rizine, Cimetidine, Guaifenesin, Omeprazole and Rani-tidine, or their metabolites or analogs, in official blood test samples. Subsection 1844(g) was modified to be consistent with changes to subsection 1844(e). All other changes to Rule 1844 are for the purposes of clarity and consistency.

#### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, September 28, 2017**, or as soon after that as business before the Board will permit, at the **Los Alamitos Race Course, 4961 Katella Avenue, Los Alamitos, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

#### WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representa-tive, may submit written comments about the pro-posed regulatory action to the Board. The written com-ment period closes at **5:00 p.m., on September 5, 2017**. The Board must receive all comments at that time; how-ever, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6026  
Fax: (916) 263-6022  
E-Mail: [haroldc@chr.ca.gov](mailto:haroldc@chr.ca.gov)

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19580 and 19581, Business and Professions Code.

Business and Professions Code sections 19440 and 19562 authorize the Board to adopt the proposed regu-lation, which would implement, interpret or make spe-cific sections 19580 and 19581, Business and Profes-sions Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 pro-vides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of Chapter 4, Business and Professions Code. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protec-tion of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 states the Board may prescribe rules, reg-ulations, and conditions, consistent with the provisions of Chapter 4, Business and Professions Code, under which all horse races with wagering on their results shall be conducted in this State. Business and Profes-sions Code section 19580 requires the Board to adopt regulations to establish policies, guidelines, and penal-ties relating to equine medication to preserve and en-hance the integrity of horse racing in the State. Business and Professions Code section 19581 provides that no substance of any kind shall be administered by any means to a horse after it has been entered to race in a horse race, unless the Board has, by regulation, specifi-cally authorized the use of the substance and the quanti-ty and composition thereof.

The proposed amendment to Rule 1844 will change subsection 1844(e)(6) to provide that no horse partici-pating in a quarter horse race may have clenbuterol, or its metabolites or analogs, in its system. Clenbuterol is a beta-2 agonist used as a bronchodilator in horses. (Beta-2 agonists are a group of drugs prescribed to treat a number of breathing problems by relaxing and enlarg-ing the airways in the lungs.) Clenbuterol has been shown to produce an anabolic steroidal-type effect, which means the drug could be used for muscle building in horses rather than simply to treat breathing problems. Because of these anabolic effects, clenbuterol has been abused in quarter horses in an effort to enhance their performance in races. In 2010, the Board collected blood samples from quarter horses at Los Alamitos Race Course and found that out of 72 blood samples collected, every test sample contained detectable levels of clenbuterol. Clenbuterol can be detected in blood for no more than 4-7 days after administration, indicating that all of the tested horses had recently been adminis-tered clenbuterol. In response, the Board suspended au-thorization of clenbuterol for quarter horses participat-ing in quarter horse races for a period of one year. In 2011 a similar testing program found that no quarter horses tested positive for clenbuterol following the sus-pension. However, in fiscal year 2013-14 there were thirteen clenbuterol violations at Los Alamitos Race Course. In fiscal year 2015-16, there were two clen-butanol violations at Los Alamitos Race Course. In July

2015, the Board passed emergency regulations amending Rule 1844 to de-authorize any detectable level of clenbuterol in a quarter horse's post-race urine sample. The emergency regulations also added Rule 1866.1, Presence of Clenbuterol in Quarter Horses, which placed special restrictions on clenbuterol prescriptions and administrations for quarter horses, requiring generally that a quarter horse with clenbuterol in its system may not race until it tests clear of clenbuterol. In July 2016 the Board amended Rule 1844 to remove clenbuterol from the list of drug substances that may be detected in an official urine test sample at specified levels in quarter horses. During the amendment process, some concerns were expressed regarding how the proposed changes to Rule 1844 would affect quarter horse races in which thoroughbreds and/or appaloosas also compete. Board Rule 1743, Thoroughbred and Appaloosa Horses Competing in Quarter Horse Races, provides that thoroughbred and appaloosa horses may compete in quarter horse races under the conditions set forth in the regulation. The amendment to Rule 1844 was adopted by the Board in response to the abuse of clenbuterol in quarter horses, intentionally placing stricter restrictions on this single breed of horse. However, the amendment imposed a scenario in which different breeds of horses may compete against each other under differing medication restrictions. Rule 1743 states that quarter horse races in which thoroughbred and/or appaloosa horses participate shall be considered "quarter horse races." Although that condition defines the type of race, it does not alter how Rule 1844 applies to horses racing in California. This means that in quarter horse races, thoroughbred or appaloosa post race urine samples may carry up to 140 picograms per milliliter of clenbuterol, yet in the same races participating quarter horses are not allowed to have any detectable levels of clenbuterol in post race-urine samples. The Business and Professions Code and CHRB regulations do not prohibit the Board from adopting different medication authorizations and thresholds for different breeds of horses. The 2016 amendment of Rule 1844 is an example of purposefully revoking the use of clenbuterol for a single breed, specifically quarter horses. However, quarter horse owners and trainers are concerned about the fact that thoroughbreds and appaloosas may participate in mixed breed quarter horse races with threshold levels of clenbuterol when quarter horses are not. Regardless of whether clenbuterol actually gives thoroughbreds and appaloosas an advantage, the perception is that they may not be racing on a level playing field with the quarter horses. The proposed changes to subsection 1844(e)(6) are necessary to address the concerns of quarter horse horsemen and level the playing field by

prohibiting the use of clenbuterol in quarter horse races for all participating breeds.

Additional modifications to the text of Rule 1844 have been made in response to changes in the Association of Racing Commissioners International (ARCI) Controlled Therapeutic Medication Schedule for Horses Version 4.0 (CTMSH), which was revised and approved by the ARCI in April 2017. (The ARCI is the only umbrella organization of the official governing rule making bodies for professional horse racing in North America. It sets standards for racing regulation, medication policy, drug testing and all other aspects of the sport.) The CTMSH lists thresholds and a recommended withdrawal time for a number of horseracing's commonly used legal drug substances, and is one of the four components of the ARCI Model Rules of Racing. California's adoption of ARCI Model Rule guidelines brings the Board's regulations in line with ARCI recommendations and promotes uniformity in the various states' horse racing regulations. The amended subsection 1844(e) lists the drug substances that may be present in official urine test samples, while the amended subsection 1844(f) lists the drug substances that may be present in official blood test samples. An amended subsection 1844(e)(7) deletes the drug substance Omeprazole, a proton-pump inhibitor used to treat gastro esophageal reflux disease and other conditions caused by excess stomach acid, and adds the drug substance Detomidine, a sedative with analgesic properties used to calm the horse and relieve abdominal pain. Omeprazole has been moved to a new subsection 1844(f)(19), which means that it will only be allowed in official blood test samples. Subsection 1844(e)(11) has been modified to provide mares in foal an exemption from the allowed level of testosterone. This is necessary as pregnant mares produce excessive testosterone compared to non-pregnant fillies and mares. If the mare is pregnant, there is no limit on testosterone, similar to intact males. Subsection 1844(f)(14) has been modified to change the allowed level of Xylazine. New subsections 1844(f)(17) through (19) and 1844(f)(21) add drug substances that may be present in the official blood test sample. The drug substances are: Cetirizine, an antihistamine; Cimetidine, a histamine H<sub>2</sub> receptor antagonist that inhibits stomach acid production; Guaifenesin, a muscle relaxant used as an adjunct to anesthesia for horses; Ranitidine, used in horses to reduce stomach acid production and to treat ulcers. Subsection 1844(g) was modified to be consistent with changes to subsection 1844(e). The drugs omitted under subsection 1844(g) also have an allowable level in blood, so they were intentionally omitted for that reason.

POLICY STATEMENT OVERVIEW OF  
ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 1844 will change subsection 1844(e)(6) to provide that no clenbuterol, or its metabolites or analogs, may be present in the official urine test samples for any horse competing in a quarter horse race. Subsection 1844(e)(7) will be modified to eliminate the drug Omeprazole and add the drug Detomidine. The proposed amendment to Rule 1844 will also change subsection 1844(e)(11) to exempt a filly or mare in foal from the allowed level of testosterone. Subsection 1844(f)(14) has been modified to change the allowed level of Xylazine. In addition, new subsections 1844(f)(16) through 1844(f)(20) have been added to allow for the presence of specified levels of Cetirizine, Cimetidine, Guaifenesin, Omeprazole and Ranitidine, or their metabolites or analogs, in official blood test samples. Subsection 1844(g) was modified to be consistent with changes to subsection 1844(e). All other changes to Rule 1844 are for the purposes of clarity and consistency.

These measures are necessary to ensure the integrity of horseracing and the protection of the public. The proposed amendment will have the benefit of assuring competitors in mixed-breed quarter horse races, and quarter horse horseracing fans that horses entered in such races will run without clenbuterol. The proposed amendment will have the benefit of promoting fairness in mixed-breed quarter horse races and helping to protect the health and safety of horse and rider. The amendment of subsections 1844(e) and 1844(f) will bring the regulation in line with changes to the ARCI-CTMSH Version 4.0, which was modified by the ARCI in April 2017. California's adoption of ARCI Model Rule guidelines brings the Board's regulations in line with ARCI recommendations and promotes uniformity and consistency in the various states' horse racing regulations. Uniformity and consistency in medication regulations has the benefit of encouraging out-of-state owners' and trainers' participation in California's horse racing industry. In addition, uniformity and consistency provides clarity for equine veterinary practitioners. The proposed amendment will not have an impact with regards to protecting the environment, the promotion of social equity, or transparency in business and government.

Evaluation of Consistency and Compatibility with Existing State Regulations: During the process of developing the proposed amendment, the Board has conducted an evaluation for any related regulations and has determined that Rule 1844 is the only regulation dealing with specified levels that may be found in official urine and blood samples of drug substances and medications authorized for administration to horses entered

to race in California, within 24 hours of the race in which entered. Therefore, the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURE REGARDING THE  
PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

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

Significant effect on housing costs: none.

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

The Board has made an initial determination that the proposed amendment to Rule 1844 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: The Board relied on the Association of Racing Commissioners International's ARCI Controlled Therapeutic Medication Schedule for Horses — Version 4.0, revised April 20, 2017, in proposing the amendment of Rule 1844.

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

Significant effect on housing costs: none.

FORMS OR DOCUMENTS INCORPORATED  
BY REFERENCE

None.

RESULT OF ECONOMIC IMPACT ANALYSIS

The adoption of the proposed amendment to Rule 1844 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California. The proposed amendment to Rule 1844 impacts individuals who administer authorized medications to horses entered to race. In making the determination that the proposed amendment to Rule 1844 will not have an adverse economic impact, the Board looked at the number of licensees who might be affected, and compared it to the total number of persons who hold CHRB occupational licenses. The individuals impacted are licensed

horse trainers, horse owners, veterinarians, and an occasional individual holding another class of CHRB license. There are currently 9,020 individuals who hold CHRB owner's licenses, 640 CHRB licensed trainers and 137 licensed veterinarians. In fiscal year 2013/2014, the CHRB issued penalties for medication violations to 128 licensees. In fiscal year 2014/2015, the CHRB issued penalties for medication violations to 94 licensees. Rule 1844 names medications and drug substances that are authorized for use in horses entered to race in this State, and the levels of such medications and drug substances that may be present in post-race urine or blood samples. The guidance provided by Rule 1844 is demonstrated by the low percentage of licensees who have been found to have violated the Board's medication regulations. The proposed amendment to Rule 1844 promotes the health and safety of race horses, which is jeopardized if they workout or race when they are not sound due to the unauthorized administration of medications or drug substances. Keeping race horses healthy protects the economic interest of owners and ensures that there is adequate horse inventory. Ensuring that horses entered to race are sound also promotes jockey/driver safety. Sound, healthy horses result in a favorable public response to horse racing, which could result in an increase in wagering activity, and a positive economic impact on the industry.

Effect on small businesses: none. The proposal to amend Rule 1844 does not affect small businesses because horse racing is not a small business under Government Code section 11342.610.

#### CONSIDERATION OF ALTERNATIVES

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

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

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

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6026  
Fax: (916) 263-6022  
E-Mail: [haroldc@chrb.ca.gov](mailto:haroldc@chrb.ca.gov)

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

Andrea Ogden, Manager  
Policy and Regulations  
Telephone (916) 263-6033

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

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

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT  
OF REASONS

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

BOARD WEB ACCESS

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

**TITLE 11. COMMISSION ON PEACE  
OFFICER STANDARDS AND TRAINING**

**Amend and Update the Training Specifications for  
Peace Officer Basic Courses  
Regulations 1005, 1007, and 1008**

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

**Public Comments Due by September 5, 2017, at  
5:00 p.m.**

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

Commission on POST  
Attn: Cheryl Smith  
860 Stillwater Road, Suite 100  
West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code §13503 (authority of Commission on POST) and Penal Code §13506 (POST authority to

adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code §13503(e) which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers. This proposed action will update the incorporated by reference document, Training and Testing Specifications for Peace Officer Basic Courses (revised 2/1/2018), to include updates to reflect new laws created by Proposition 64, revisions to grammar, punctuation, definitions, and minimum training standards. Additionally, the incorporation by reference statements in POST Regulations sections 1005, 1007, and 1008 will be revised to reflect the updated revised date for the Training and Testing Specifications for Peace Officer Basic Courses.

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

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

All changes to curriculum begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and subject matter experts who provide recommended changes to existing curriculum. The completed work of all committees is presented to the POST Commission for final review and adoption. Upon adoption of the proposed amendments, academies and course presenters will be required to teach and test the updated curriculum. The proposed effective date is February 1, 2018.

DOCUMENT INCORPORATED BY REFERENCE

Training and Testing Specifications for Peace Officer Basic Courses, revised 2/1/2018.

## ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

## ESTIMATE OF ECONOMIC IMPACT

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

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District for Which Government Code §§ 17500–17630 require reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California business, including the ability of California businesses to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement that do not impact California businesses, including small businesses.

Affect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulations will have no effect on housing costs.

## RESULTS OF ECONOMIC IMPACT ASSESSMENT PER GOVERNMENT CODE § 11346.3(b)

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

The proposed amendments of regulations will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California. There would be no impact that would affect worker safety or the state's environment.

## COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

## CONSIDERATION OF ALTERNATIVES

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

## CONTACT PERSON

Questions regarding this proposed regulatory action may be directed to Cheryl Smith, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630, at [cheryl.smith@post.ca.gov](mailto:cheryl.smith@post.ca.gov), or (916) 227–0544. The alternate contact is Mike Barnes at (916) 227–3454. General questions regarding the regulatory process may be directed to Christy Correa at (916) 227–4847, [christy.correa@post.ca.gov](mailto:christy.correa@post.ca.gov), or by FAX at (916) 227–5271.

## TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement

of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST Website at: <http://www.post.ca.gov/regulatory-actions.aspx>.

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

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

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

**TITLE 13. DEPARTMENT OF MOTOR  
VEHICLES**

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to amend Sections 26.01 and 26.02 in Article 2.1, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to commercial driver's licenses and commercial learner's permits.

PUBLIC HEARING

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

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., **September 4, 2017**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt these regulations under the authority granted by Vehicle Code sections 1651 and 15250, in order to implement, interpret, or make specific Vehicle Code sections 12505, 12809, and 15250 and Sections 383.71 and 383.73 in Title 49, Code of Federal Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Vehicle Code section 15250 incorporates and adopts the federal commercial driver's license standards and issuance requirements for California. Among the federal standards is Section 383.73 in Title 49, Code of Federal Regulations (CFR), which requires an applicant for any commercial driver's license, including a commercial learner's permit, to provide proof to the issuing authority of his or her United States citizenship or proof of lawful permanent residency, and proof that he or she has residency in the issuing State. The federal regulation identifies the documents that are acceptable for establishing an applicant's U.S. citizenship, lawful permanent residency, or non-domiciled commercial license or permit holders, and identifies the type of documents a state should require to establish the state residency requirement.

On October 7, 2016, the department published the Notice of Proposed Action, setting forth the proposed adoption of Sections 26.01 and 26.02 in Article 2.1. The adoption of Section 26.01 prohibits the department from issuing a commercial driver's license without proof of the applicant's U.S. citizenship or lawful permanent residency, and proof of the applicant's California residency being presented to the department. The adoption of Section 26.02 addresses the submission of citizenship and residency documents at the time of renewal, transfer, or upgrade of a commercial driver's license or a commercial learner's permit.

During the 45-day comment period, which ended on November 21, 2016, the department received no comments related to the proposed adoptions. The department submitted the final rulemaking action to the Office of Administrative Law on January 6, 2017. The action was approved on February 21, 2017 with an effective date of April 1, 2017.

In the weeks since this action has been approved, the department has received notice from interested parties that the adopted regulations fail to address commercial driver's license holders that rely on an employment authorization document (EAD) or a form I-94 Arrival/Departure Record to meet the commercial driver's license legal presence requirement. The department adopted emergency regulations, effective on April 19,

2017, that ensure applicants with an EAD or I-94 will be able to use those documents during the application process.

This proposed action will ensure the provisions adopted in the emergency action will become permanent and allow commercial drivers to continue to apply for and renew their commercial driver's licenses with documents already available to them.

Problems This Proposed Regulation Intends To Address

The department has identified nearly 49,000 commercial driver's license holders potentially at risk of losing their license because they have no qualifying legal presence documents. Those commercial driver's license holders who lose their commercial driver's license will likely lose their employment, resulting in serious harm to a large group of individuals.

Benefits Anticipated From This Proposed Action

The department anticipates this action will allow the affected commercial driver's license holders to maintain their commercial driver's licenses and maintain employment.

CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS

During the process of developing these regulations, the department has conducted a search of any similar regulations on the topic of commercial driver's licenses and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

COMPARABLE FEDERAL STATUTES OR REGULATIONS

Part 383 of Title 47, CFR contains the commercial driver's license standards, including the requirements for establishing an applicant's U.S. citizenship or lawful permanent residency, and state residency. Those standards allow states to determine the specific documents accepted by the license issuing agency. These proposals are comparable to the federal requirements but not identical. These proposals only have non-substantial deviations from the federal standards.

DOCUMENTS INCORPORATED BY REFERENCE

There are no documents incorporated by reference.

Economic and Fiscal Impact Determinations

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

- *Cost or Savings to Any State Agency:* None.
- *Other Non-Discretionary Cost or Savings to Local Agencies:* None.
- *Costs or Savings in Federal Funding to the State:* None.
- *Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500 et seq.:* None.
- *Effects on Housing Costs:* None.
- *Impacts Directly Affecting Businesses:* This action proposes to fix a problem that will indirectly impact business. If a driver, who is employed by a business, is not able to provide sufficient proof of legal presence, that driver will be unable to maintain his or her commercial driver's license. A driver's failure to maintain a commercial driver's license will likely mean that he or she is no longer able to drive as part of his or her employment, which may impact the business. However, the department does not anticipate a significant impact to these businesses as there is a relatively low number of current commercial driver's license holders that would be affected while the department advances through the regulatory process.
- *Cost Impact on Representative Private Persons or Businesses:* This action does not impose any costs on private persons or businesses. As explained above, this action may indirectly impact business if a driver, who is employed by a business, is not able to provide sufficient proof of legal presence, resulting in the loss of his or her commercial driver's license. While the business and affected private person may be impacted by the loss of employment, this action does not impose any costs that would contribute to that loss.
- *Small Business Impact:* This proposed action may impact small businesses that employ commercial driver's license holders to transport goods or services. The department does not anticipate a significant impact to these small businesses as there is a relatively low number of current commercial driver's license holders that would be affected while the department advances through the regulatory process.

Results of the Economic Impact Statement

The department has made the following determinations related to this proposed regulatory action:

This proposed action will not only create jobs within California, but also intends to fix a problem that may

lead to the elimination of jobs in California. If a commercial driver is not able to provide sufficient proof of legal presence, that driver will be unable to maintain his or her commercial driver's license.

This action is not likely to create or eliminate businesses within California or expand businesses currently doing business in California. While it is possible that there may be some commercial drivers that suffer the loss of their commercial driver's license, the department does not anticipate a significant impact to businesses. Also, because this action only identifies legal presence documents that an applicant can use when applying for a commercial driver's license or commercial learner's permit, the provisions are not likely to lead to the expansion of businesses currently doing business.

This action is unlikely to impact the welfare or health of California residents, worker safety or the environment. Requiring a commercial driver's license applicant to provide specific documents as proof of legal presence may reduce instances of fraud and ensure that only qualified drivers are issued commercial driver's licenses, thereby ensuring the safety of the public.

#### PUBLIC DISCUSSION OF PROPOSED REGULATIONS

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

#### ALTERNATIVES CONSIDERED

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

#### CONTACT PERSON

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

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

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

Telephone: (916) 657-8898  
Facsimile: (916) 657-6243  
E-Mail: LADRegulations@dmv.ca.gov

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

Shelly Johnson Marker, Chief of Staff  
Department of Motor Vehicles  
Telephone: (916) 657-6469

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

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

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

#### AVAILABILITY OF MODIFIED TEXT

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

should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

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

**NOTICE OF INTENTION  
TO AMEND THE CONFLICT-OF-INTEREST  
CODE OF THE  
DEPARTMENT OF RESOURCES RECYCLING  
AND RECOVERY**

NOTICE IS HEREBY GIVEN that the Department of Resources Recycling and Recovery (Department), pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment of 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 proposes amending its conflict-of-interest code to include employee positions that involve making decisions or participating in making 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.

These amendments delete position titles that are no longer in use and add position titles that involve making governmental decisions by (1) voting on a matter, (2) obligating or committing the Department, or (3) entering into contractual agreements for the Department. The amendments also add position titles that participate in the making of governmental decisions by (1) negotiating on behalf of the Department or (2) advising or making recommendations to the decision maker by (a) conducting research or (b) preparing reports, analyses or opinions.

Copies of the amended conflict-of-interest 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 September 4, 2017, 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 August 21, 2017, by contacting the Contact Person set forth below.

The Department 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 has determined that adopting the proposed amendments:

1. Imposes no mandate on local agencies or school districts.
2. Imposes no costs or savings on any state agency.
3. Imposes 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 must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the code is proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment of the conflict-of-interest code and any communication required by this notice should be directed to:

Elliot Block  
Legal Office  
Department of Resources Recycling and Recovery  
(CalRecycle)  
1001 I Street, MS-24B  
Sacramento, CA 95814  
Telephone: (916) 341-6080  
Fax: (916) 319-7138  
e-mail: Elliot.Block@CalRecycle.ca.gov

**TITLE 14. FISH AND GAME  
COMMISSION**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 1050(b), 8046, 8046.1, and 8047 of the Fish and Game Code and to implement, interpret or make specific Sections 8031, 8032, 8033, 8033.1, 8034, 8035, 8040, 8043, 8045, and 8047 of said Code, proposes to add Section 197, Title 14, California Code of Regulations, and Title 50, Sections 660.113, 660.213 and 660.313, Code of Federal Regulations, relating to Commercial Fisheries Landing Requirements.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

The purpose of the addition of Section 197, Commercial Fisheries Landing Requirements, is the management of activities associated with commercial fisheries landings and the reporting of these landings. A “landing” is generally characterized as the transfer or offloading of fish from a vessel for the purpose of selling or delivering those fish to a licensed fish receiver. The proposed regulations are necessary to manage this transaction and to clarify the applicable statutes for the participants and law enforcement. To date, there are no regulations guiding this activity. Statutes authorizing commercial fisheries licenses and landing taxes are found in Article 7 and Article 7.5 of the Fish and Game Code. Commercial fish receivers are engaged in business for profit and are required to be licensed and to report all landing receipt records on a form furnished by the Department of Fish and Wildlife (Department) pursuant to Fish and Game Code sections 8043 and 8047. In addition, Fish and Game Code subsection 1050(b) authorizes the Fish and Game Commission (Commission) to determine the forms to be used for commercial fisheries entitlements.

The proposed regulations implement a transition from the current paper-based reporting system to electronic forms via a new electronic reporting system for commercial fisheries landings.

Transitioning from paper landing receipts to electronic fish tickets, as the electronic forms are known, is appropriate at this time as advances in computer and Internet technology and the use of electronic devices by many businesses, including the fishing industry, is widespread. It is necessary that the Department update its processes, including proposing regulations to ensure the benefits of switching from paper landing receipts to electronic fish tickets are realized.

The electronic fish tickets will be submitted to the Department through the federal, web-based *E-Tix* system maintained by the Pacific States Marine Fisheries Commission (PSMFC). *E-Tix* has been a federal requirement for the individual fishing quota groundfish trawl fishery since its inception in 2011. Oregon has adopted *E-Tix* for all fisheries on a voluntary basis and Washington is working towards this as well. The Department’s goal is to phase out the use of paper landing receipts and transition to electronic fish tickets using the PSMFC *E-Tix* application for data entry. This eliminates the issue of duplicate electronic reporting systems and provides consistency between federal and State agencies.

These regulations will provide for a phase in period of one year for all landing receipts to be submitted electronically via the *E-Tix* system. Phasing in the mandate

to use electronic fish tickets is a reasonable approach to implementing a new reporting structure, since there will be a portion of the buyers or receivers that will have an adjustment period, which will include a learning curve to learn the electronic program, and provides time for those that do not have access to the Internet or Internet capable devices to obtain access.

PROPOSED REGULATIONS

- Define specific terms used within the proposed regulations.
- Include information included on a paper landing receipt, fish transportation receipt and electronic fish ticket.
- Include information on the transition from paper landing receipts to electronic fish tickets via the web-based application known as *E-Tix*, including the phase-in period until full implementation of electronic reporting. During the phase-in period either paper landing receipts or electronic fish tickets can be used, but not both.
- Include procedures on fish transportation receipts from the point of landing to the fish receiver who buys the fish and fills out a paper landing receipt or electronic fish ticket.
- Describe the hardware and software requirements to fill out electronic fish tickets, the requirements to ensure Internet accessibility in a sufficient state to completely and effectively submit the electronic fish ticket, as well as what to do in case of a power outage or device failure that could restrict access to the *E-Tix* system.
- Provide details on when the electronic fish ticket should be submitted — specifically within 24 hours of the landing, who should review and verify the information by providing signatures prior to submission, and include the process for retaining copies of the receipt to verify the signatories.
- Allow fish receivers to request a waiver from electronic reporting when circumstances exist that prevent a fish receiver from reporting landings via *E-Tix* and provide details on how to obtain a waiver from the Department.
- Ensure that submitted electronic fish tickets can be revised after submission in the event that data errors are found on the receipt.

BENEFITS OF THE PROPOSED REGULATIONS

The proposed regulatory action will benefit fishermen, fish receivers, the State’s economy, and the environment by maintaining healthy and sustainable commercial fisheries. Specific benefits include:

1. Time savings and reduced costs to the Department by reducing the amount of time and money spent designing, printing, packaging and mailing landing receipts to the fish businesses.
2. Transition of Department data entry staff to other priority tasks associated with landings data as data entry of paper forms is eliminated.
3. Ease of record storage and maintenance of electronic records by the Department.
4. Built-in checks and validations in electronic fish tickets will result in more accurate fisheries data on which the Department and the Commission can base management decisions.
5. Use of electronic fish tickets will result in more timely submission of fisheries data for both management and law enforcement.
6. Electronic fish tickets will provide for ease of information storage, data manipulation for research, production for legal reasons and information sharing with other fishery management agencies and law enforcement.
7. Availability of landing data and reporting tools for fish receivers.
8. Providing consistency with federal regulations for certain fisheries that also require electronic reporting via the same web-based application.

#### CONSISTENCY WITH STATE REGULATIONS

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. Commission staff has searched the California Code of Regulations and statutes and has found no other State regulations related to the completion of landing receipt records and no other State agency with authority to promulgate regulations concerning landing receipt records.

**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 Spring Hill Suites by Marriott, 900 El Camino Real, Atascadero, California, on Thursday, October 12, 2017, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on September 28, 2017 at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on October 6, 2017. All comments must be received no later than October 12, 2017, at the hearing. If you would like copies of any modifications to this proposal, please include your name and mailing address.

#### Availability of Documents

The Initial Statement of Reasons, text of the regulations, as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, 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 Valerie Termini or Sheri Tiemann at the preceding address or phone number. **Katie Perry, Environmental Program Manager, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Perry can be reached at (916) 445-6456 or [Katie.Perry@wildlife.ca.gov](mailto:Katie.Perry@wildlife.ca.gov).** Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our 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 Assessment

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:

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

- (a) 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.

The electronic application can be used on any Internet capable device, including personal computer, mobile device, or tablet. Such devices are common tools used to conduct business, so there should be minimal expense to an individual

commercial fisherman who sells fish to persons not licensed as fish receivers and to fish businesses. If a commercial fisherman or fish business needs to maintain and/or upgrade their device or Internet connection, that will be their responsibility and they may incur some costs. Internet browsers can be downloaded onto an existing Internet-capable device free of charge (e.g., Google Chrome, Mozilla Firefox). The costs of purchasing an Internet-capable mobile device (e.g., cell phone) may range from free of charge with commitment to a service contract to several hundred dollars depending on the mobile device and service plan. The cost of a tablet ranges from \$50 to \$400. The cost of purchasing a computer starts at about \$200 for a basic model. The costs of an Internet service provider vary depending on whether or not a phone is purchased, but generally runs about \$90 per month without any promotions. Offsetting these potential costs are the benefits to fish receivers with improved timeliness of catch data and ability by the Department to manage the fisheries. In addition, eliminating the requirement to complete paper receipts and for some to complete electronic fish tickets for both state and federally managed species at one time is a benefit. Finally, such expenditures are tax deductible business expenses.

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

The Department does not anticipate any impacts on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses in California. The Department does not anticipate any benefits to the health and welfare of California residents or worker safety. The Department anticipates benefits to the environment in the sustainable management of commercial fisheries.

- (c) Cost Impacts on a Representative Private Person or Business:  
See (a) above.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The *E-Tix* is a federal application, and is owned and maintained by PFMSC. Therefore, the expense to the Department for implementation should be nominal. The cost savings by not

printing landing receipt books, providing return reply envelopes, and postage would be significant. The average cost to the Department for printing, providing prepaid envelopes and return postage averages about \$100,000 per year. Additional cost savings would occur for the State due to the cessation of manually entering the fish ticket information into a data management system from the paper receipts.

- (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 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 22/MPP. DEPARTMENT OF SOCIAL SERVICES**

ORD #0217-07

**NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)**

**ITEM # 1: Financial Distress in Residential Care Facilities for the Elderly (RCFE)**

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 5, 2017, as follows:

Office Building # 8  
744 P St. Room 103  
Sacramento, California

FACSIMILE

(916) 654-3286

E-MAIL

[ord@dss.ca.gov](mailto:ord@dss.ca.gov)

CHAPTERS

Title 22, Division 6, Chapter 8, section 87211.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The CDSS will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify CDSS at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 5, 2017.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the regulations text are available on the internet at <http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations>. Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below. Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

CONTACT

Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 8-4-192  
Sacramento, California 95814

TELEPHONE

(916) 657-2586

Current regulations for RCFEs include specific reporting requirements for licensees to submit to CDSS within a specified time frame for specified events taking place. Reportable events include death or serious injury of a resident, use of an Automated External Defibrillator, any incident that threatens the welfare, safety or health of a resident, epidemic outbreaks, catastrophic events and/or hiring of a new facility administrator.

The proposed regulations will enact the RCFE Residents Foreclosure Protection Act of 2011 [Senate Bill (SB) 897, (Chapter 376, Statutes of 2011)], which added Section 1569.686 to the Health and Safety Code (HSC). These regulations will expand current reporting requirements to include various events signifying possible financial distress for RCFE licensees. Licensees experiencing any of the financial distress events, such as notice of default or other indication of property foreclosure, unlawful detainer, filing of bankruptcy or notice of intent to terminate utilities, are required to report such to CDSS, State Long-Term Care Ombudsman, residents and their representatives within the specified time frame. Licensees are also required to report such events to potential residents and their representatives prior to admission. Upon receipt of such a report, CDSS shall initiate corrective action. A licensee that fails to report any of these events may be subject to a civil penalty.

The Community Care Licensing Division (CCLD) is proposing regulations to adopt language in the California Code of Regulations (CCR), Title 22, Division 6, Chapter 8, section 87211 compatible and consistent with the intent of SB 897 (Chapter 376, Statutes of 2011). These reporting requirements enable CDSS to address any quality of care issues that could arise in an RCFE experiencing financial distress, such as inadequate resources and/or the inability to provide appropriate staffing levels to provide care and supervision for residents. The proposed regulations will benefit residents and their families by providing advance notice of any financial distress events, thereby allowing for the

opportunity to research alternative placement and prepare residents for possible relocation. These reporting requirements provide protection to the health and safety of RCFE residents and prospective residents. The promulgation of these regulations is necessary to carry out CCLD's core function of protecting the health and safety of the vulnerable elderly population in licensed residential care.

During the process of developing these regulations, CDSS has conducted a search of any similar regulations on this topic (Financial Distress, RCFE) and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

Anticipated Benefits

The proposed regulations will assist CDSS in protecting resident health and safety by addressing any quality of care issues that could arise in an RCFE experiencing financial distress as exhibited by the occurrence of any of the specified events. These events could signify inadequate resources and/or appropriate staffing levels to provide care and supervision to residents. These regulations will benefit residents and their families by providing advance notice of any financial distress events, thereby allowing for the opportunity to research alternative placement and prepare residents for possible relocation.

COST ESTIMATE

1. Costs or Savings to State Agencies: None.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500–17630: None.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies and school districts for certain costs mandated by the State. There are no reimbursable state-mandated costs under Section 17500 et seq., of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has not received any facts, evidence, documents, testimony or other evidence to indicate there has been any significant, statewide adverse economic impact on business related to these laws. In addition, the proposed regulations are implementing state law. If

there were to be any adverse economic impact on business, it would be a result of the passage of the enacting laws, not the regulations themselves. As such, CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The proposed regulations will assist CDSS in protecting resident health and safety by addressing any quality of care issues that could arise in an RCFE experiencing financial distress as exhibited by the occurrence of any of the specified events.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

In developing the regulatory action, CDSS did not consider any other alternatives than the one proposed because this was the most effective. No reasonable alternative has been presented for review.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the pro-

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

AUTHORITY AND REFERENCE CITATIONS

SB 897, Chapter 376, Statutes of 2011; HSC section 1569.686.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person:

Oliver Chu  
(916) 657-2586

Backup:

Sylvester Okeke  
(916) 657-2586

TITLE 22. STATE WATER RESOURCES CONTROL BOARD

TITLE 22. SOCIAL SECURITY  
DIVISION 4. ENVIRONMENTAL HEALTH  
CHAPTER 3 (Water Recycling Criteria) &  
CHAPTER 17 (Surface Water Treatment)

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Board) proposes to amend or adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed regulatory action.

SUMMARY OF PROPOSED REGULATORY ACTION

The State Board proposes to amend California Code of Regulations, Title 22, Division 4, Chapters 3 and 17, for the purpose of establishing regulations governing the planned placement of recycled water into a surface water reservoir that is used as a source of domestic drinking water supply; a process known as surface water augmentation (SWA). The adoption of "Surface Water Augmentation Using Recycled Water" regulations will:

- Amend Article 1, Chapter 3, to amend an existing definition and establish definitions related to SWA.

- Adopt Article 5.3, Chapter 3, Division 4, to establish criteria applying to water recycling agencies that may choose to engage in SWA with a public water system (PWS).
- Adopt Article 9, Chapter 17, Division 4, establishing criteria for a PWS that may choose to utilize a reservoir augmented with recycled water.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Any person, or his or her representative, may submit written comments relevant to the proposed regulatory action to the State Board. The written comment period closes at 12:00 p.m. on September 12, 2017. The State Board will only consider comments received at the State Board offices by that time. Submit written comments via at least one of the following:

Electronic mail (email):  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

FAX: (916) 341-5620

Postal

Mail: Ms. Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-2000

Hand

Delivery: Ms. Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

Persons delivering comments must check in with lobby security and have them contact Ms. Jeanine Townsend at (916) 341-5600.

Also, please indicate in the subject line and/or on the cover page of submittals: "Comments — Proposed SWA Regulations".

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the State Board to provide any notices that may be required in future.

Due to the limitations of the email system, emails larger than 15 megabytes (MB) may be rejected and will not be delivered and received by the State Board. There-

fore, emails larger than 15 MB should be submitted under separate emails or another form of delivery should be used.

The State Board requests but does not require that written comments sent by mail or hand-delivered be submitted in triplicate.

The State Board requests but does not require that if reports or articles in excess of 25 pages are submitted in conjunction with the comments, that the commentator provide a summary of the report or article and describe the reason for which the report or article is being submitted or is relevant to the proposed regulation.

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.

### PUBLIC HEARING

The State Board will conduct a public hearing regarding the subject proposed regulations at the time and place noted below. At the hearing, any person may present comments orally or in writing relevant to the proposed action described in this notice.

DATE: September 7, 2017  
 TIME: 9:30 a.m.  
 PLACE: California Environmental  
 Protection Agency  
 State Water Resources Control  
 Board  
 Coastal Hearing Room  
 1001 I Street, Second Floor  
 Sacramento, CA 95814

A quorum of the State Board members may attend this public hearing, but will not take action.

### 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 to the Board at (916) 341-5600 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.

### SI NECESITA ARREGLOS ESPECIALES

Conforme a la Sección 7296.2, del Código del Gobierno de California, los siguientes servicios o arreglos especiales pueden ser solicitados:

- Servicio de intérprete durante la audiencia;
- Documentos en otro idioma o en un formato alternativo;
- Arreglos razonables relacionados a una discapacidad.

Para pedir estos arreglos especiales o servicios en otro idioma, puede contactar a la Secretaria de la Junta (Board) al (916) 341-5600 lo más pronto posible, pero a más tardar 10 días hábiles antes de la fecha de la audiencia de la Junta (Board). Los usuarios del Sistema TTY/TDDVoz-a-Voz pueden marcar el 7-1-1 para utilizar el California Relay Service.

### AUTHORITY AND REFERENCE

Pursuant to Water Code sections 13521 and 13562, and Health and Safety Code sections 116271 and 116375, the State Board is authorized to adopt the subject regulations. This action is proposed to implement, interpret, and make specific one or more of the following: Sections 13520, 13522, 13522.5, 13523, 13523.1, 13524, 13560, 13561, 13564, 13565 and 13567, Water Code; and Sections 116275, 116365, 116375, 116385, 116390, 116400, 116530, 116535, 116550, 116551, and 116735, Health and Safety Code.

### INFORMATIVE DIGEST

**Background and Summary of Existing Relevant Laws:** All suppliers of domestic water to the public are subject to regulations adopted by the U.S. Environmental Protection Agency (U.S. EPA) under the U.S. Safe Drinking Water Act (SDWA) of 1974, as amended (42 U.S.C. §300f et seq.), as well as by the State Board under the California SDWA (Health & Saf. Code, div. 104, pt. 12, ch. 4, §116270 et seq.). Pursuant to section 116270 of the Health and Safety Code, et seq., it is the objective of the California SDWA for a PWS to deliver drinking water to consumers that is, at all times, pure, wholesome, and potable. The ability to meet this objective is a reflection of the water quality and quantity of PWS's source of supply, the PWS's ability to treat the source of supply (if necessary), and the PWS's ability to deliver drinking water, all in a manner that ensures compliance with all applicable drinking water standards.

In September 2010, Senate Bill 918 (SB 918) was signed by the Governor and filed with the Secretary of State, establishing Chapter 7.3 ("Direct and Indirect Potable Reuse"), under Division 7 of the Water Code. Specific to the proposed SWA regulations and among

other things, SB 918 authorized and mandated the State Board to develop and adopt uniform water recycling criteria for:

- each varying type of use of recycled water where the use involves the protection of public health (see Water Code section 13521<sup>1</sup>).
- surface water augmentation, as defined by SB 918, by December 31, 2016, if an expert panel, convened and administered by the State Board pursuant to the bill’s statutory requirements, found that the State Board’s criteria would adequately protect public health (see Water Code section 13562).

In addition, SB 918, along with amendments to pertinent sections of the Water Code via 2013’s SB 322, required the State Board to select the expert panel members in consultation with an advisory group. The advisory group was mandated to consist of “no fewer than nine representatives of water and wastewater agencies, local public health officers, environmental organizations, environmental justice organizations, public health nongovernmental organizations, the department, the State Board, the United States Environmental Protection Agency, ratepayer or taxpayer advocate organizations, and the business community.” In addition, SB 918 and SB 322 mandated minimum qualifications for the expert panel (see Water Code section 13565).

**Comparable Federal Statute and Regulations:**

There are no federal regulations or statutes that address the specific subject addressed by the proposed regulations.

**Policy Statement Overview and Summary of Proposed Regulatory Action:** The State Water Resources Control Board (State Board) proposes to adopt regulations governing the planned placement of recycled water into a surface water reservoir that is used as a source of domestic drinking water supply; a process known as surface water augmentation (SWA). As a source of drinking water supply, rather than treated recycled water being directly delivered to customers for human consumption, the treated recycled water in the reservoir would be subject to further treatment by a public water system’s (PWS’s) surface water treatment plant before being delivered to customers for human consumption. Existing law requires the State Board to adopt uniform water recycling criteria for SWA by December 31, 2016; subject to the condition that a statutorily mandated expert panel has made a finding that such criteria would adequately protect public health.

*Problem Statement:* The objective of the California Safe Drinking Water Act (SDWA) is to ensure that a

PWS reliably delivers water for human consumption that is, at all times, pure, wholesome, and potable. With the limited availability of new surface water sources, the overuse of groundwater sources, the projected effect of climate change, including the potential for more frequent severe droughts, along with continued population growth, California is challenged to continue meeting the objective of the SDWA. Furthermore, in February 2009, the State Board updated its Water Recycling Policy through the adoption of Resolution No. 2009–0011. The resolution includes the goal of significantly increasing the use of recycled water in California, including increasing the use of recycled water — beyond 2002 levels — by at least one million acre–feet per year by 2020, and by at least two million acre–feet per year by 2030. Indirect potable reuse where recycled water, after appropriate treatment, is used to ultimately supplement sources of drinking water supply utilized by a PWS — is one means to help address the aforementioned challenges.

*Objective (Goal):* The broad objective of this proposed regulatory action is to:

- Through adoption of regulations, establish uniform water recycling criteria for the planned placement of recycled water into a surface water reservoir used as a source of water supply for a PWS, such that the adherence to the criteria would result in public health being adequately protected.

*Benefits:* The anticipated benefits, including any nonmonetary benefit to the protection of public health and safety of California residents, worker safety, and the state’s environment, from this proposed regulatory action are:

- Providing a relatively reliable, drought–proof, and sustainable option for augmenting a surface water reservoir that is used as a source of domestic drinking water supply by California PWSs.
- Providing an additional means for achieving the goals for increased beneficial use of recycled water in California.
- Although the absence of SWA regulations wouldn’t preclude the permitting of SWA projects, the adoption of uniform criteria in the form of SWA regulations is expected to streamline the permitting process.

The proposed SWA regulations would establish *minimum* uniform water recycling criteria for the purpose of adequately protecting public health with respect to the planned placement of recycled water into a surface water reservoir that is used as a source of domestic drinking water supply. The proposed regulations would not preclude the Regional Water Quality Control Boards (Regional Boards), via their authority and responsibility, from imposing more stringent requirements when is-

<sup>1</sup> Although Water Code section 13521 predates SB 918, the nexus to the proposed SWA regulations was recognized by SB 918’s establishment of Water Code section 13560(b).

suings a waste discharge and/or water recycling permit to water recycling agencies that may choose to engage in SWA, including having to meet National Pollutant Discharge Elimination System (NPDES) requirements established by the U.S. Environmental Protection Agency (U.S. EPA).

In accordance with the aforementioned mandates and pursuant to Water Code sections 13521 and 13562, and Health and Safety Code sections 116271 and 116375, the State Board proposes the following changes to Title 22:

■ Amend Article 1, Chapter 3, Division 4, to amend an existing definition and establish definitions related to SWA, which includes the proposed amendment or adoption of sections summarized as follows:

- Section 60301.120 (Augmented Reservoir), defining an augmented reservoir that is used as a source of domestic drinking water supply;
- Section 60301.450 (Indicator Compound), amending an existing definition so as to not be restricted only to groundwater replenishment IPR projects and correct grammar;
- Section 60301.850.5 (Surface Water), clarifying that “surface water” has the same meaning as defined in Chapter 17;
- Section 60301.851 (Surface Water Source Augmentation Project or SWSAP), establishing a definition and a term for the type of project related to the planned augmentation of a surface water reservoir with recycled water;
- Section 60301.852 (Surface Water Source Augmentation Project Public Water System or SWSAP PWS), establishing a definition and term for a public water system choosing to participate in the planned augmentation of a surface water reservoir with recycled water;
- Section 60301.853 (Surface Water Source Augmentation Project Water Recycling Agency or SWSAP WRA), establishing a definition and term for a water recycling agency choosing to deliver recycled water for the purpose of augmenting a surface water reservoir.

■ Adopt Article 5.3, Chapter 3, Division 4, to establish criteria applying to water recycling agencies involved in the planned placement of recycled water into a surface water reservoir used as a source of drinking water supply by a PWS,

which includes the adoption of sections summarized as follows:

- Section 60320.300 (Application), establishing the general applicability for the requirements of the Article;
- Section 60320.301 (General Requirements), establishing general requirements, including overarching requirements and those criteria that do not fall within the more specific subject matter in subsequent sections;
- Section 60320.302 (Advanced Treatment Criteria), setting forth minimum treatment criteria and requirements for the recycled water to be delivered to an augmented reservoir;
- Section 60320.304 (Lab Analyses), establishing minimum requirements related to the analyses of chemicals and contaminants;
- Section 60320.306 (Wastewater Source Control), establishing minimum requirements and criteria related to the origin and control of raw wastewater to be ultimately treated and used for SWA projects;
- Section 60320.308 (Pathogenic Microorganism Control), establishing minimum requirements for the control of pathogenic microorganisms;
- Section 60320.312 (Regulated Contaminants and Physical Characteristics Control), establishing minimum requirements for the control of regulated contaminants and physical water quality characteristics that are commonly regulated in drinking water;
- Section 60320.320 (Additional Chemical and Contaminant Monitoring), establishing requirements for the monitoring of chemicals and contaminants beyond regulated contaminants and pathogenic microorganisms;
- Section 60320.322 (SWSAP Operation Plan), establishing minimum requirements and criteria of a water recycling agency’s operation plan for a surface water source augmentation project;
- Section 60320.326 (Augmented Reservoir Monitoring), establishing the minimum monitoring requirements for an augmented reservoir;
- Section 60320.328 (Reporting), establishing water recycling agency reporting requirements, unique to SWA projects;

- Section 60320.330 (Alternatives), establishing criteria with respect to thresholds for approval for potential alternatives for the requirements established via Article 5.3.
- Adopt Article 9, Chapter 17, Division 4, establishing requirements for a PWS choosing to utilize a reservoir augmented with recycled water, summarized as follows:
  - Section 64668.05 (Application), establishing the general applicability for the requirements of the Article;
  - Section 64668.10 (General Requirements and Definitions), establishing definitions and general requirements for PWS choosing to participate in the planned augmentation of a surface water reservoir with recycled water;
  - Section 64668.20 (Public Hearings), establishing requirements related to the need to participate in at least three public hearings prior to using an augmented reservoir as a source of supply for drinking water;
  - Section 64668.30 (SWSAP Augmented Reservoir Requirements), establishing requirements pertaining to an augmented reservoir, including but not limited to baseline monitoring, theoretical retention time, and minimum criteria associated with reservoir attenuation.

The net effect of the proposed regulations would be to establish specific regulatory criteria for general application by WRAs and PWSs choosing to engage in the planned placement of recycled water into a surface water reservoir that is used as a source of domestic drinking water supply.

**Evaluation of Inconsistency or Incompatibility with Existing State Regulations:** The State Board evaluated this proposal as to whether the proposed regulations are inconsistent or incompatible with existing California state regulations. This evaluation included a review of California’s existing regulations, potentially related to indirect potable reuse (IPR) by way of SWA, including the State Board’s existing general regulations. It was determined that no other state regulation addressed the same subject matter and that this proposal was not inconsistent or incompatible with other state regulations. However, it should be noted that on June 18, 2014, the California Department of Public Health adopted regulations for another form of IPR, where recycled water is used for the purpose of replenishing groundwater basins that are used as a source of domestic drinking water supplies. For those portions comparable, the proposed SWA regulations are substantially

consistent with the existing regulations for IPR through groundwater replenishment. Therefore, the State Board has determined that this proposal, if adopted, would not be inconsistent or incompatible with existing state regulations.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The State Board has made the following determinations:

- Mandate on local agencies and school districts: No new mandate to local agencies or schools is proposed.
- Cost or savings to any State Agency: None.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other non-discretionary cost or savings imposed on local agencies: None.
- Cost or savings in Federal funding to the State: None.
- Significant, statewide adverse economic impact directly affecting business, including ability to compete: There is no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impact on representative private person or business: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None.

#### STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Adoption of 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 in California; or 4) affect worker safety or the environment. Adoption of the proposed regulations may have a positive effect on the health and welfare of California residents by providing minimum uniform criteria for ensuring protection of public health, which will serve to streamline the existing permitting process for agencies choosing to engage in a surface water augmentation project.

BUSINESS REPORT

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

EFFECT ON SMALL BUSINESS

The State Board has determined that the proposed regulations would not affect small business because Government Code chapter 3.5, article 2, section 11342.610 excludes utilities from the definition of small business.

CONSIDERATION OF ALTERNATIVES

The State Board must determine that no reasonable alternative considered or otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to the regulated water systems and affected private persons, or would be more cost-effective to the regulated water systems and affected private persons, yet equally effective in implementing statutory requirements or other provisions of law, than the proposed action.

The State Board invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period, as identified in this notice.

WATER CODE SECTION 106.3 CONSIDERATION

In establishing and adopting the proposed regulations, the State Board considered the statewide policy set forth in section 106.3 of the Water Code and determined the proposed regulations will further the stated policy.

CALIFORNIA ENVIRONMENTAL  
QUALITY ACT

The California Environmental Quality Act (CEQA) mandates that guidelines be adopted that include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from CEQA (Pub. Res. Code § 21084). One of those classes of projects exempt from CEQA is “Actions by Regulatory Agencies for Protection of the Environment” (Cal. Code Regs., title 14, §15308).

The State Board intends to make a finding that adoption of the proposed SWA regulations represents action

taken by a regulatory agency pursuant to its general and specific statutory authority for the maintenance and protection of the environment, and that adoption of the proposed SWA regulations satisfies the requirements of Title 14 of the California Code of Regulations (CCR), section 15308, and is a Class 8 categorical exempt project. The State Board intends to further find that there are no facts on the record to indicate or suggest that the proposed SWA regulations fall within any of the enumerated exceptions for the appropriate use of a categorical exemption as set forth in Title 14 CCR, section 15300.2. The State Board intends to find, therefore, that pursuant to Title 14 CCR, section 15300, adoption of the proposed SWA regulations is categorically exempt from CEQA requirements for the preparation of environmental documents.

STATE BOARD CONTACT PERSONS

Requests for copies of the proposed regulatory text, the initial statement of reasons, subsequent modifications of the proposed regulatory text, if any, or other inquiries concerning the proposed action may be directed to:

Michael McKibben, P.E.  
Senior Sanitary Engineer  
State Water Resources Control Board  
1350 Front Street, Room 2050  
San Diego, CA 92101  
Telephone: (619) 525-4023  
Electronic mail address: [michael.mckibben@waterboards.ca.gov](mailto:michael.mckibben@waterboards.ca.gov)

In the event Mr. McKibben is not available to respond to requests or inquiries, please contact:

Sherly Rosilela, P.E.  
Water Resource Control Engineer  
State Water Resources Control Board, Division of  
Drinking Water  
1001 I Street, 17th Floor  
Sacramento, CA 95814  
Telephone: (916) 341-5578  
Electronic mail address: [sherly.rosilela@waterboards.ca.gov](mailto:sherly.rosilela@waterboards.ca.gov)

INTERNET ACCESS

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations may be found on the State Board’s website at the following address: [http://www.waterboards.ca.gov/public\\_notices/comments/index.shtml](http://www.waterboards.ca.gov/public_notices/comments/index.shtml).

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

The State Board has prepared the proposed regulation text and an Initial Statement of Reasons for the proposed regulatory action. The Initial Statement of Reasons includes the specific purpose for the regulations proposed for adoption, and the rationale for the State Board's determination that adoption is reasonably necessary to carry out the purpose for which the regulations are proposed. All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for inspection and copying throughout the rulemaking process. To inspect or copy the rulemaking file at the State Board office, contact Sherly Rosilela, identified above ("Contact Persons").

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering relevant comments received in a timely manner, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are substantially related to the originally proposed text, the State Board will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the State Board adopts the modified regulations. Any such modifications will also be posted on the State Board website. Please send requests for copies of any modified regulations to the attention of the contact persons provided above ("Contact Persons"). The State Board will accept written comments on the modified regulation for 15 days after the date on which they were made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person(s) named in this notice, or may be accessed on the website address provided above ("Internet Access").

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

**SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 PROPOSITION 65**

**NOTICE OF PROPOSED RULEMAKING TITLE 27, CALIFORNIA CODE OF REGULATIONS**

**PROPOSED AMENDMENTS TO ARTICLE 6 CLEAR AND REASONABLE WARNINGS HOTEL EXPOSURE WARNINGS — NEW SECTIONS 25607.32 AND 25607.33**

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to amend Article 6 of Title 27 of the California Code of Regulations<sup>1</sup> by adopting Sections 25607.32 and 25607.33. OEHHA amended the Article 6 clear and reasonable warning regulations in August 2016 to include tailored warnings for several specific types of exposure situations (Section .1, et seq.). OEHHA has received a request to adopt tailored warnings for exposures to listed chemicals that can occur at hotels and other transient lodging establishments. These are the subject of this rulemaking.

**PUBLIC PROCEEDINGS**

Any written comments concerning this proposed regulatory action, regardless of the form or method of transmission, must be received by OEHHA by **5:00 p.m. on September 7, 2017**, the designated close of the written comment period. All comments 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](mailto:P65Public.Comments@oehha.ca.gov). Please include "Hotels Exposure Warnings" in the subject line. Hard-copy comments may be mailed, faxed, or delivered in person to the appropriate address below.

<sup>1</sup> All further references are to sections of Title 27, Cal. Code of Regs., unless indicated otherwise.

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

INFORMATIVE DIGEST/POLICY STATEMENT  
 OVERVIEW

BACKGROUND

OEHHA is the lead state agency that implements Proposition 65<sup>2</sup> and has the authority to promulgate and amend regulations to further the purposes of the Act. The Act requires businesses to provide a clear and reasonable warning before they cause an exposure to a chemical listed as known to the state to cause cancer or reproductive toxicity.<sup>3</sup> The Act also prohibits the discharge of listed chemicals to sources of drinking water.<sup>4</sup> These proposed amendments to the regulations would add guidance for hotel and other transient lodging establishments and the public concerning compliance with the warning requirements under Proposition 65.

Please be aware that OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address and e-mail may be available to third parties.

A public hearing on this proposed regulatory amendment will be scheduled on request. To request a hearing, send an e-mail to Monet Vela at [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) or to the address listed above by no later than **August 23, 2017**, which is at least 15 days before the close of the comment period. OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days before the public hearing date. The notice will provide the date, time, and location of the hearing.

If a hearing is scheduled and you have special accommodation or language needs, please contact Monet Vela at (916) 323-2517 or [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial the California Relay Service: 1-800-735-2929 (TTY), 1-800-735-2922 (Voice) TTY which is a Telecommunications Device for the Deaf, and is reachable only from phones equipped with a TTY Device.

SPECIFIC BENEFITS OF THE PROPOSED  
 REGULATIONS

The proposed regulatory action will facilitate hotel and other transient lodging establishments' compliance with the Act by providing guidance concerning the provision of safe harbor warnings under Proposition 65. The health and welfare of California residents will likely benefit by increasing the public's ability to understand the warnings they receive for the various exposure situations that may occur at hotels and other transient lodging establishments.

NO INCONSISTENCY OR INCOMPATIBILITY  
 WITH EXISTING REGULATIONS

OEHHA has conducted an evaluation and has determined that Article 6 is the only regulation concerning Proposition 65 warnings. Therefore, the proposed regulatory action is neither inconsistent nor incompatible with any other existing state regulations. The action does not change the existing mandatory requirements on businesses subject to Proposition 65, state or local agencies and does not address compliance with any other law or regulation.

CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Monet Vela at (916) 323-2517, or by e-mail to [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov). Mario Fernandez is a back-up contact person for inquiries concerning processing of this action and is available at (916) 323-2635 or [mario.fernandez@oehha.ca.gov](mailto:mario.fernandez@oehha.ca.gov).

LOCAL MANDATE/FISCAL IMPACT

Because Proposition 65 by its terms<sup>5</sup> does not apply to local agencies or school districts, OEHHA has deter-

AUTHORITY

Health and Safety Code section 25249.12 and Health and Safety Code section 25249.8(a).

REFERENCE

Health and Safety Code sections 25249.5, 25249.6, 25249.8(a), 25249.10, 25249.11 and 25249.12.

<sup>2</sup> Health and Safety Code section 25249.5 et seq., The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as "Proposition 65". Hereafter referred to as "Proposition 65" or "the Act".

<sup>3</sup> Health and Safety Code section 25249.6.

<sup>4</sup> Health and Safety Code section 25249.5.

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

mined the proposed regulatory action would not impose a mandate on local agencies or school districts. There are also no costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of the Government Code because Proposition 65 does not apply to these facilities.<sup>6</sup> OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action, nor will there be any costs or savings to the state because of the proposed regulatory action. There are also no costs or savings in federal funding to the state.

#### EFFECT ON HOUSING COSTS

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

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

The proposed regulatory action provides compliance assistance to hotel and other transient lodging establishments subject to the Act by adding specific provisions addressing the provision of safe harbor warnings for these types of businesses. The proposed regulation does not impose any mandatory requirements on those businesses. OEHHA has therefore made an initial determination that the adoption of these amendments will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

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

#### Creation or Elimination of Jobs within the State of California

The proposed regulatory action will not impact the creation or elimination of jobs within California. The regulations would provide guidance and specificity concerning safe harbor methods and content a business may use to provide a Proposition 65 warning for exposures to listed chemicals that can occur at hotels and other transient lodging establishments.

#### Creation of New Businesses or Elimination of Existing Businesses within the State of California

The proposed regulatory action will not impact the creation of new businesses or the elimination of existing businesses within California. The action provides guidance and specificity to assist hotel and other transient lodging establishments providing a Proposition 65 warning.

#### The Expansion of Businesses Currently Doing Business within the State

OEHHA does not anticipate any major impact on the expansion of businesses currently doing business within the state. The action provides guidance and specificity to assist hotel and other transient lodging establishments providing a Proposition 65 warning.

#### Benefits of the Proposed Regulation

Affected businesses will likely benefit from the proposed regulatory action because the amendments provide specific guidance concerning the provision of safe harbor warnings under Proposition 65. The health and welfare of California residents will likely benefit by increasing the public's ability to understand the warnings they receive for the various exposure situations that may occur at hotels and other transient lodging establishments.

#### COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action. The action does not impose any new requirements upon private persons or business.

#### EFFECT ON SMALL BUSINESSES

The proposed regulatory action will not adversely impact very small businesses because Proposition 65 is limited by its terms to businesses with 10 or more employees<sup>7</sup>.

#### REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE 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, would be

<sup>6</sup> Health and Safety Code section 25249.11(b).

<sup>7</sup> Health and Safety Code section 25249.11(b).

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 regulation, all the information upon which the regulation is based, and the text of the proposed regulation. These documents are available on OEHHA's web site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT  
OF REASONS

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

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

**PROPOSITION 65**

**PROPOSED AMENDMENT TO ARTICLE 5**

**NEW SECTION 25501.1 NATURALLY  
OCCURRING CONCENTRATIONS OF LISTED  
CHEMICALS IN UNPROCESSED FOODS**

**PROPOSED NATURALLY OCCURRING  
CONCENTRATIONS OF INORGANIC  
ARSENIC IN WHITE AND BROWN RICE**

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to adopt a new Section 25501.1 in Article 5 in Title 27 of the California Code of Regulations. The new section would provide guidance for businesses and the public by establishing default natural background levels for arsenic in rice. The default background levels would in turn assist businesses in determining the applicability of the requirements of Proposition 65.<sup>1</sup> The concentration levels derived in Section 25501.1 take into account the possible contribution of anthropogenic sources in deriving the naturally occurring safe harbor values for the section. The proposed naturally occurring concentrations for of inorganic arsenic in rice are 80 parts per billion (ppb) for white rice and 170 ppb for brown rice. Additional levels for other listed chemicals or types of foods may be adopted over time.

**PUBLIC PROCEEDINGS**

Public Hearing

A public hearing on these proposed regulatory amendments will be scheduled on request. To request a hearing, send an e-mail to Monet Vela at [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) or to the address listed above by no later than **August 23, 2017**, which is 15 days before the close of the comment period. OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days before the public hearing date. The notice will provide the date, time, and location of the hearing.

<sup>1</sup> The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 *et seq.*, commonly referred to as "Proposition 65". Hereafter referred to as "Proposition 65" or "the Act".

If a hearing is scheduled and you have special accommodation or language needs, please contact Monet Vela at (916) 323-2517 or [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial the California Relay Service: 1-800-735-2929 (TTY), 1-800-735-2922 (Voice) TTY which is a Telecommunications Device for the Deaf, and is reachable only from phones equipped with a TTY Device.

#### Written Comment Period

Any written comments concerning this proposed regulatory action, regardless of the form or method of transmission, must be received by OEHHA by **5:00 p.m. on September 7, 2017**, the designated close of the written comment period. All comments 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](mailto:P65Public.Comments@oehha.ca.gov). Please include "Naturally Occurring Arsenic in Rice" in the subject line. Hard-copy comments may be mailed, faxed, or delivered in person to the appropriate address below.

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

Please be aware that OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address and e-mail may be available to third parties.

#### CONTACT

Inquiries concerning the proposed Proposition 65 regulation described in this notice may be directed to Monet Vela at (916) 323-2517, or by e-mail to [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov). Mario Fernandez is a back-up contact person for inquiries concerning processing of this action and is available at (916) 323-2635 or [mario.fernandez@oehha.ca.gov](mailto:mario.fernandez@oehha.ca.gov).

#### AUTHORITY

Health and Safety Code section 25249.12.

#### REFERENCE

Health and Safety Code sections 25249.6 and 25249.10.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### BACKGROUND

OEHHA is the state entity responsible for the implementation of Proposition 65. OEHHA has the authority to adopt and amend regulations to make specific and further the purposes of Proposition 65. Proposition 65 requires businesses to provide a warning when they knowingly and intentionally cause an exposure to a listed chemical<sup>2</sup>, and prohibits the discharge of listed chemicals into sources of drinking water<sup>3</sup>. Warnings are not required and the discharge prohibition is not in force when exposures are sufficiently low, as specified in the Act.<sup>4</sup>

Existing regulations provide that naturally occurring background levels of listed chemicals in food are not considered an exposure for purposes of Proposition 65. The regulations state that the naturally occurring level of a chemical may be established by determining the concentration of the chemical that would be considered as background in the area where the food is grown, raised or obtained, using reliable regional and local data.<sup>5</sup> However, the existing regulations lack the specificity necessary for businesses to determine the natural background level.

In proposing this regulatory action, OEHHA intends to clarify the means by which natural background levels were derived for arsenic in rice and safe harbor naturally occurring concentration levels were established. The proposed regulation provides compliance assistance for affected businesses and provides more useful information to Californians about their exposures to listed chemicals including those that occur naturally in certain foods.

#### SPECIFIC BENEFITS OF THE PROPOSED REGULATIONS

The proposed regulation will benefit the health and welfare of California residents by providing more information to the public and facilitating businesses' compliance with the Act. Businesses will be able to rely on the adopted safe harbor natural background levels to help them determine compliance with the requirements

<sup>2</sup> Health and Safety Code, section 25249.6.

<sup>3</sup> Health and Safety Code, section 25249.5.

<sup>4</sup> Health and Safety Code, sections 25249.9(b) and 25249.10(c).

<sup>5</sup> Title 27, California Code of Regulations, Section 25501(a)(2).

of Proposition 65 and the public will be able to make more informed decisions concerning the food products they purchase.

**NO INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING REGULATIONS**

OEHHA has conducted an evaluation and has determined that this is the only regulation concerning Proposition 65 naturally occurring chemicals in food. Therefore, the proposed regulation is neither inconsistent nor incompatible with any other existing state regulations. The regulation does not change the existing mandatory requirements on businesses subject to Proposition 65, state or local agencies and does not address compliance with any other law or regulation.

**LOCAL MANDATE/FISCAL IMPACT**

Because Proposition 65 by its terms<sup>6</sup> does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts; nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action. Also, the proposed action will not create any cost or savings to any state agency, and will not create any cost or savings in federal funding to the state.

**COSTS OR SAVINGS TO STATE AGENCIES**

Because Proposition 65 by its terms<sup>7</sup> does not apply to any state agency and this regulation is simply a clarification of existing procedures, OEHHA has initially determined that no significant savings or increased costs to any state agency will result from the proposed regulatory action.

**EFFECT ON HOUSING COSTS**

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

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

OEHHA has made an initial determination that the adoption of the proposed regulation will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation establishes safe harbor natural background concentrations to which businesses are not required to comply with but may do so voluntarily.

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

**Creation or Elimination of Jobs within the State of California**

This regulatory action will not likely have a major impact on the creation or elimination of jobs within the State of California.

**Creation of New Businesses or Elimination of Existing Businesses within the State of California**

This regulatory action will not likely have a major impact on the creation of new businesses or the elimination of existing businesses within the State of California.

**The Expansion of Businesses Currently Doing Business within the State**

OEHHA does not anticipate any major impact on the expansion of businesses currently doing business within the state because the proposed regulation will not change the requirements under the Act.

**Benefits of the Proposed Regulation**

The health and welfare of California residents will likely benefit from the increased information regarding exposures to listed chemicals and the clarity provided to businesses complying with the naturally occurring chemicals in food exposure exemption of the Act. More reliable warnings will further the purposes of Proposition 65 by increasing the public's ability to make informed decisions regarding the food products they choose to purchase and their exposures to chemicals that cause cancer or reproductive effects. Because businesses are given the option to use the safe harbor natural background concentration levels adopted by the lead agency, a business will have more certainty and confidence that it is in compliance with the naturally occurring chemicals in food exposure exemption while retaining the right to use other evidence, assumptions, principles or procedures consistent with Section 25501 to establish that a chemical in a food is naturally occurring.

<sup>6</sup> See Health and Safety Code section 25249.11(b).

<sup>7</sup> See Health and Safety Code section 25249.11(b).

**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.

**EFFECT ON SMALL BUSINESSES**

OEHHA has determined that the proposed regulatory action will not affect small business as it does not impose any mandatory requirements on small businesses. Proposition 65 expressly exempts businesses with less than 10 employees<sup>8</sup> from the law.

**KNOWN COST IMPACTS**

OEHHA has determined that there are no known cost impacts that a representative private person or business would necessarily incur in the voluntary compliance with the proposed action.

**BUSINESS REPORTING REQUIREMENT**

OEHHA finds that that the proposed regulation does not require any reporting requirement from businesses.

**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 regulation, all the information upon which the regulation is based, and the text of the proposed regulation. These documents are available on OEHHA's web site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

The full text of any proposed regulation that is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on the revised

proposed regulation 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 website at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

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

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

**SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 PROPOSITION 65**

**NOTICE OF PROPOSED RULEMAKING TITLE 27, CALIFORNIA CODE OF REGULATIONS**

**PROPOSED AMENDMENTS TO ARTICLE 6 CLEAR AND REASONABLE WARNINGS**

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to amend certain sections of Article 6 of Title 27 of the California Code of Regulations.<sup>1</sup> Subsequent to the August 30, 2016 repeal and adoption of Article 6 of Title 27, California Code of Regs, OEHHA noted that further clarification of and corrections to certain sections of Article 6 would be beneficial to the regulated community in advance of the August 30, 2018 operative date of the new Article 6 regulations. This proposed rulemaking would modify the following sections of Article 6:

- Section 25600.1. Definitions: subsections (b), (i), (j), and (m)
- Section 25600.2. Responsibility to Provide Consumer Product Exposure Warnings: subsections (b), (b)(4), (c), and (c)(1)
- Section 25601. Safe Harbor Clear and Reasonable Warnings — Methods and Content: subsection (c)

<sup>1</sup> All further references are to sections of Title 27, Cal. Code of Regs., unless indicated otherwise.

<sup>8</sup> See Health and Safety Code section 25249.11(b).

- Section 25602. Consumer Product Exposure Warnings — Methods of Transmission: subsections (a)(3), (a)(4), (b), (c), and (d)
- Section 25603. Consumer Product Exposure Warnings — Content: subsections (a)(2)(E), (b), (b)(2)(A)–(C), and (c)
- Section 25607. Specific Product, Chemical and Area Exposure Warnings: subsections (a) and (b)
- Section 25607.2. Food Exposure Warnings — Content: subsection (a)(6)
- Section 25607.5. Food and Beverage Exposure Warnings for Restaurants — Methods of Transmission: caption title and subsections (a) and (c)
- Section 25607.6. Food and Beverage Exposure Warnings for Restaurants — Content: caption title and subsection (a)
- Section 25607.7. Prescription Drug Exposure and Emergency Medical or Dental Care Exposure Warnings: subsection (a)
- Section 25607.12. Furniture Product Exposure Warnings — Methods of Transmission: subsections (a)(1) and (a)(1)(A)–(B)
- Section 25607.13. Furniture Product Exposure Warnings — Content: subsections (a)(1), (a)(2) and (a)(2)(B)
- Section 25607.14. Diesel Engine Exposure Warnings (Except Passenger Vehicle, Pickup Truck, or Van Engines) — Methods of Transmission: caption title and subsection (a)
- Section 25607.15. Diesel Engine Exposure Warnings (Except Passenger Vehicle, Pickup Truck, or Van Engines) — Content: caption title and subsection (a)
- Section 25607.16. Vehicle Exposure Warnings — Methods of Transmission: subsections (a) and (a)(1)–(2)
- Section 25607.17. Vehicle Exposure Warnings — Content: subsections (a) and (a)(3)

#### PUBLIC PROCEEDINGS

Any written comments concerning this proposed regulatory action, regardless of the form or method of transmission, must be received by OEHHA by **5:00 p.m. on September 7, 2017**, the designated close of the written comment period. All comments 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](mailto:P65Public.Comments@oehha.ca.gov). Please include “Article 6 Amendments” in the subject line. Hard-copy comments may be mailed, faxed, or delivered in person to the appropriate address below.

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

Please be aware that OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address and e-mail may be available to third parties.

A public hearing on these proposed regulatory amendments will be scheduled on request. To request a hearing, send an e-mail to Monet Vela at [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) or to the address listed above by no later than **August 23, 2017**, which is at least 15 days before the close of the comment period. OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days before the public hearing date. The notice will provide the date, time, and location of the hearing.

If a hearing is scheduled and you have special accommodation or language needs, please contact Monet Vela at (916) 323–2517 or [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial the California Relay Service: 1–800–735–2929 (TTY), 1–800–735–2922 (Voice) TTY which is a Telecommunications Device for the Deaf, and is reachable only from phones equipped with a TTY Device.

#### CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Monet Vela at (916) 323–2517, or by e-mail to [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov). Mario Fernandez is a back-up contact person for inquiries concerning processing of this action and is available at (916) 323–2635 or [mario.fernandez@oehha.ca.gov](mailto:mario.fernandez@oehha.ca.gov).

#### AUTHORITY

Health and Safety Code section 25249.12 and Health and Safety Code section 25249.8(a).

REFERENCE

Health and Safety Code sections 25249.5, 25249.6, 25249.8(a), 25249.10, 25249.11 and 25249.12.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BACKGROUND

OEHHA is the lead agency that implements Proposition 65<sup>2</sup> and has the authority to promulgate and amend regulations to further the purposes of the Act. The Act requires businesses to provide a clear and reasonable warning before they cause an exposure to a chemical listed as known to the state to cause cancer or reproductive toxicity<sup>3</sup>. The Act also prohibits the discharge of listed chemicals to sources of drinking water<sup>4</sup>. These proposed amendments to the new clear and reasonable warning regulations would clarify the guidance and criteria OEHHA provides to businesses and the public concerning the warning requirements under Proposition 65.

SPECIFIC BENEFITS OF THE PROPOSED REGULATIONS

The proposed regulatory action will facilitate businesses' compliance with the Act by clarifying guidance concerning the provision of safe harbor warnings under Proposition 65. The health and welfare of California residents will likely benefit by increasing the public's ability to understand the warnings they receive for the various products they may choose to purchase.

NO INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING REGULATIONS

OEHHA has conducted an evaluation and has determined that Article 6 is the only regulation concerning Proposition 65 warnings. Therefore, the proposed regulatory action is neither inconsistent nor incompatible with any other existing state regulations. The action does not change the existing mandatory requirements on businesses subject to Proposition 65, state or local agencies and does not address compliance with any other law or regulation.

<sup>2</sup> Health and Safety Code section 25249.5 et seq., The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as "Proposition 65". Hereafter referred to as "Proposition 65" or "the Act".

<sup>3</sup> Health and Safety Code section 25249.6.

<sup>4</sup> Health and Safety Code section 25249.5.

LOCAL MANDATE/FISCAL IMPACT

Because Proposition 65 by its terms<sup>5</sup> does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts. There are also no costs to any local agency or school district requiring reimbursement under 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, nor will there be any costs or savings to the state because of the proposed regulatory action. There are also no costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

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

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

The proposed regulatory action provides compliance assistance to businesses subject to the Act by clarifying an existing regulation and does not impose any mandatory requirements on those businesses. OEHHA has therefore made an initial determination that the adoption of this action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

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

**Creation or Elimination of Jobs within the State of California**

The proposed regulatory action will not impact the creation or elimination of jobs within California. The action simply clarifies or adds specificity to the existing regulations.

**Creation of New Businesses or Elimination of Existing Businesses within the State of California**

The proposed regulatory action will not impact the creation of new businesses or the elimination of existing businesses within California. The action simply clarifies or adds specificity to the existing regulations.

**The Expansion of Businesses Currently Doing Business within the State**

OEHHA does not anticipate any major impact on the expansion of businesses currently doing business with-

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

in the state. The action simply clarifies or adds specificity to the existing regulations.

**Benefits of the Proposed Regulation**

Affected businesses will likely benefit from the proposed action because the amendments clarify guidance concerning the provision of safe harbor warnings under Proposition 65. The health and welfare of California residents will likely benefit by increasing the public's ability to understand the warnings they receive for the various products they may choose to purchase.

**COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action. The action does not impose any new requirements upon private persons or businesses.

**EFFECT ON SMALL BUSINESSES**

The proposed regulatory action will not adversely impact very small businesses because Proposition 65 is limited by its terms to businesses with 10 or more employees<sup>6</sup>.

**REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE 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, 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 regulation, all the information upon which the regulation is based, and the text of the proposed regulation.

<sup>6</sup> Health and Safety Code section 25249.11(b).

These documents are available on OEHHA's web site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

The full text of any proposed regulation that is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on the revised proposed regulation 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 website at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

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

**RULEMAKING PETITION  
DECISION**

**BOARD OF PAROLE HEARINGS**

**RESPONSE TO PETITION TO ADOPT, AMEND, OR REPEAL A REGULATION PURSUANT TO GOVERNMENT CODE SECTIONS 11340.6 AND 11340.7**

**BPH PETITION RESPONSE 2017-03**

The Board of Parole Hearings (hereinafter "board") received a Petition to Adopt, Amend, or Repeal a Regulation under Government Code sections 11340.6 and 11340.7 from petitioner Stephen Menchaca on June 9, 2017. In accordance with subdivision (a) of section 11340.7, this document serves as the board's response to the petition.

The following information is provided with the response in compliance with subdivision (d) of Government Code section 11340.7:

1. **NAME OF AGENCY:** Board of Parole Hearings  
 2. **PARTY SUBMITTING THE PETITION:** Stephen Menchaca (J26976)

3. **PROVISIONS OF THE CALIFORNIA CODE OF REGULATIONS (CCR) REQUESTED TO BE AFFECTED:** Petitioner requested the board amend California Code of Regulations, Title 15, sections 2402(a) and 2422(a).

4. **REFERENCE TO AUTHORITY TO TAKE THE ACTION:** Petitioner cited to the United States Constitution, the California Constitution, Penal Code sections 1170 and 5000, the California Administrative Procedure Act, *In re Butler* (2015) 236 Cal.App.4th 1222, and *In re Foss* (1974) 10 Cal.3d 910.

5. **REASONS SUPPORTING THE AGENCY'S DECISION:** Petitioner asserts the board has good cause to amend California Code of Regulations, Title 15, section 2402, subdivision (a) and section 2422, subdivision (a) to remove the language “[r]egardless of the length of time served” from those regulations. Petitioner contends the regulatory language permits and directs parole suitability hearing panels to ignore the constitutional prohibition against imposition of punishment that is disproportionate to a prisoner’s individual culpability for their crime of commitment. Petitioner bases his claim on language found in *In re Butler, supra*, 236 Cal.App.4th 1222. Petitioner also contends the specified regulatory language represents an exercise of regulatory authority by the board that is not authorized by the California Legislature. Further, Petitioner claims the adoption of the specified regulations failed to comply with the requirements of the Administrative Procedure Act. Finally, Petitioner contends an inmate’s life maximum term is ameliorated once a parole suitability hearing panel applies a matrix and calculates an inmate’s adjusted base term and that the adjusted base term establishes a quantum of punishment for a particular crime.

**Petitioner’s request is DENIED:** Petitioner’s arguments for removing the contested language are based on misinterpretations and misunderstandings of the laws on which these regulations are based. The regulations, as written, accurately capture the board’s requirements. Consequently, the board must deny petitioner’s request. Petitioner’s arguments are addressed below.

A. *No Good Cause for Removal*

Petitioner’s claim that the board has good cause to remove the language “[r]egardless of the length of time served” from the California Code of Regulations, title 15, sections 2402(a) and 2422(a), is erroneous. The board is actually barred from limiting a hearing panel’s determination of parole suitability in this way. Specifically, subdivision (a) of sections 2402 and 2422 address the factors of parole suitability for indeterminate sen-

tenced inmates. These regulatory provisions are part of the larger regulatory framework promulgated by the board to carry out the legislative directive in California Penal Code section 3041, subdivision (b), which requires the board to consider public safety in determining an inmate’s suitability for parole. In determining an inmate’s suitability for parole, the California Supreme Court has held that a parole suitability hearing panel must assess “an inmate’s *current* dangerousness.” (*In re Lawrence* (2008) 44 Cal.4th 1181, 1205.) Consequently, both sections 2402 and 2422 direct a parole suitability hearing panel to find an inmate unsuitable for parole if the panel determines the inmate continues to pose a current unreasonable risk of danger to society if released from prison.

Because the focus is on an inmate’s current risk of danger to the public safety, the panel must independently use that standard to assess the inmate’s suitability, regardless of the length of time an inmate served in prison. For this reason, the California Supreme Court decreed that “[i]mplementation of the cruel or unusual punishment clause . . . does not require the Board . . . to set premature release dates for current life–maximum prisoners who, it believes, present public safety risks.” (*In re Dannenberg* (2005) 34 Cal.4th 1061, 1098.) Instead, as previously noted, the board’s parole suitability analysis is focused on an inmate’s current threat of danger to public safety. (*In re Lawrence* (2008) 44 Cal.4th 1181, 1205–1206.) Therefore, the contested language accurately captures the board’s parole determination requirements as directed under statutory and case law.

B. *Proportionality Arguments Are Misplaced*

Here, Petitioner claims subdivision (a) of sections 2402 and 2422 permit and direct “panels to ignore the constitutional prohibition against imposition of cruel and unusual punishment in the form of punishment which is disproportionate to a prisoner’s individual culpability for their crime of commitment.” Seemingly, Petitioner’s contention is that the language “[r]egardless of the length of time served” in the specified regulations directs the board to act unconstitutionally, and therefore must be removed from the regulations, because it does not allow for a parole suitability hearing panel to conduct a proportionality analysis when determining an indeterminate sentenced inmate’s suitability for parole. Relatedly, Petitioner quotes the California Court of Appeal in *In re Butler* where the court stated “[t]his declaration of authority is staggering. Blinding itself to the fact that . . . there is a point at which any sentence will become constitutionally excessive if it is ‘grossly disproportionate’ to the prisoner’s individual culpability for the commitment offense.” (*In re Butler* (2015) 236 Cal.App.4th 1222, 1235–1236.) Petitioner further contends that the California Legislature has not adopted a

statute authorizing a “prisoner’s retention beyond the period of punishment his/her individual culpability for his/her crime of commitment merits, in hope that he/she may gain increased insight or any other form of improved rehabilitation.”

Petitioner’s argument fails to account for the fact that, in retaining life sentences for certain crimes, the California Legislature determined that the culpability for a conviction of those specific crimes warranted the inmate spending the remainder of his or her life in prison unless the inmate demonstrates suitability for release prior to the end of the inmate’s natural life. Consequently, the Legislature did not charge the board with determining when an indeterminately sentenced inmate’s term in prison reached a point of retention beyond the period of punishment merited by his or her crime. Rather, the board considers the current threat of danger an inmate poses to public safety to determine when an inmate may be released from his or her life sentence. (See *In re Lawrence* (2008) 44 Cal.4th 1181, 1205–1206.) An inmate’s level of insight and rehabilitation are among the factors considered by the board in making a parole suitability determination.

Moreover, the proportionality arguments on which petitioner relies are misplaced as they relate to the board’s separate function of setting minimum terms inmates must serve on their life sentences before becoming eligible for release. Specifically, under the statutory parole scheme that existed prior to the enactment of Senate Bill 230 (2015–2016 regular session), the board was charged with two primary responsibilities. Penal Code section 3041, subdivision (b), required the board to determine an inmate’s suitability for parole. In doing so, the board was instructed to consider public safety. Additionally, subdivision (a) of that section required the board to establish a minimum release date for indeterminately sentenced inmates, meaning the board used the individual circumstances of the crime and inmate’s level of culpability to calculate the earliest date on which an inmate could be released, but only upon being found suitable for parole by a board hearing panel. This date, known as an inmate’s adjusted base term, was established by the board with the goal of providing uniformity in sentencing “for offenses of similar gravity and magnitude.” However, consistent with subdivision (b) and the case law noted above, this date only captured a minimum term of incarceration. The maximum term remained the inmate’s natural life until a board hearing panel found the inmate suitable for parole.

Prior to the Butler class action, the board carried out these two responsibilities by first determining an inmate’s suitability for parole. If the inmate was found suitable, then the board calculated the inmate’s base term to determine if he or she had served the required minimum prison term. The California Supreme Court

upheld the board’s practice of determining an inmate’s suitability for parole prior to calculating an inmate’s base term in *In re Dannenberg* by holding that the board is required “to eschew term uniformity . . . in the interest of public safety in the particular case.” *In re Dannenberg* (2005) 34 Cal.4th 1061, 1084. Thus, consideration of the amount of time an indeterminately sentenced inmate had served in prison was not considered by the board until after the board determined the inmate was suitable for parole. When the board did consider the amount of time served by an indeterminately sentenced inmate, it was to determine whether an inmate found suitable for parole had served the minimum amount of time required to ensure uniformity in prison sentences prior to release on parole. The Butler case, to which petitioner cites, only amended the timing of when the board calculated an inmate’s adjusted base term, requiring for the first time that the board calculate these minimum term lengths at an inmate’s initial parole consideration hearing rather than after the inmate was found suitable for parole.

Notably, the California Legislature removed the board’s statutory authority to set parole release dates when it enacted Senate Bill 230 (2015–2016 regular session), which amended Penal Code section 3041, subdivision (a). As a consequence of the statutory amendment, an inmate deemed suitable for parole was now eligible for immediate release following all statutory review periods, regardless of the date on which the board would have calculated a base term. Thus, this amendment eliminated the effect of one of the board’s statutory responsibilities under the prior statutory parole scheme by rendering base terms and adjusted base terms to be legally meaningless. However, the amendment did not alter the board’s other statutory responsibility, which was the determination of an inmate’s suitability for parole. This determination was still meant to be made with the overriding statutory goal of public safety, irrespective of the amount of time an inmate had served in prison. Thus, pursuant to California Penal Code section 3041, subdivision (b), as interpreted by the California Supreme Court, the board is still authorized by the California Legislature to determine an indeterminately sentenced inmate’s parole suitability without regard for the amount of time the inmate has served in prison.

Consequently, petitioner’s proportionality arguments and reliance on the Butler settlement agreement are both misplaced as both relate to completely separate board functions from that of determining an inmate’s suitability for parole.

*C. Adjusted Base Terms Establish Minimum Sentence Requirements, Not Release Dates*

Petitioner next contends that “[w]hen a panel calculates an adjusted base term it establishes the quantum of punishment for that crime.” Petitioner claims that when a panel defers the next hearing of an inmate “who has exceeded the punishment his individual culpability merits,” the board is increasing the quantum of punishment for a crime and administering Marcy’s Law in an ex post facto manner. Petitioner again confuses the board’s base term calculation function, which no longer has any legal effect on when an inmate is released from prison, with the constitutional concept of proportionality. As previously explained above, the board used to calculate a base term to establish the *minimum* amount of time an indeterminately sentenced inmate would need to remain in prison before being released on parole to carry out the Legislature’s goal of uniformity of sentences. The base terms and adjusted base terms did not establish a “quantum of punishment” for a particular crime. The *maximum* term an indeterminately sentenced inmate could be required to serve was still *life* if the inmate’s record continuously demonstrated that he or she was not yet suitable for parole under the legal standards discussed above.

In a related claim, petitioner argues that, “[o]nce a panel chooses and applies a given matrix when calculating an inmates [sic] adjusted base term, the life maximum term has been ameliorated.” Petitioner cites to *In re Foss* (1974) 10 Cal.3d 910, 929 in stating that “[w]hen the panel then denies parole and the adjusted base term has been exceeded, the prisoner’s retention is in complete disregard of any mitigating circumstances of the crime” in violation of the California Constitution. This argument is similarly misplaced because the cited case involves a completely different sentencing scheme. Specifically, *In re Foss* concerned the constitutionality of a statute under California’s prior indeterminate sentencing scheme precluding parole consideration for an offender with a prior drug conviction for a minimum period of ten years. The California Supreme Court determined this statute violated the California Constitution. *Id.* However, Petitioner does not identify how this holding relates to a parole suitability hearing panel’s determination of parole suitability for a particular inmate under California’s current statutory parole scheme, enacted in 1977. As previously stated, current law governing the board’s determination of parole suitability requires an analysis of an inmate’s current danger to public safety. (*In re Lawrence* (2008) 44 Cal.4th 1181, 1205–1206.) Further as noted above, the enactment of Senate Bill 230 (2015–2016 regular session) removed all legal effect base term and adjusted base term

calculations have on when an inmate is eligible for release from prison.

*D. These Regulations Were Correctly Promulgated under the Administrative Procedure Act*

Petitioner next claims that the regulatory language at issue “does not implement any statute adopted by the legislature” and thus represents “an unlawful expansion of authority on the part of the [b]oard.” This contention is erroneous on its face as these regulations clearly implement the board’s requirements in Penal Code section 3041.

Petitioner also claims subdivision (a) of sections 2402 and 2422 fail to comply with the requirements of the Administrative Procedure Act. Petitioner specifically points to California Government Code section 11342.600, which defines the term “regulation” as used within Chapter 3.5 of the Government Code, as evidence of the board’s alleged failure. However, Petitioner does not specify how the board failed to comply with the requirements of the Administrative Procedure Act with regards to how the regulatory language at issue was adopted by the board.

Moreover, under the Administrative Procedure Act, the California Government Code section 11343.6 states:

The filing of a certified copy of a regulation . . . with the Secretary of State raises the rebuttable presumptions that:

- (a) It was duly adopted.
- (b) It was duly filed and made available for public inspection at the day and hour endorsed on it.
- (c) All requirements of this chapter [the APA] and the regulations of the office relative to such regulation have been complied with.
- (d) The text of the certified copy of a regulation or order of repeal is the text of the regulation or order of repeal as adopted.

The courts shall take judicial notice of the contents of the certified copy of each regulation and of each order of repeal duly filed.

Therefore, since California Code of Regulations, title 15, sections 2402 and 2422 were both adopted under the Administrative Procedure Act and certified by the Office of Administrative Law, both sections are presumed to have been duly adopted and consistent with the statutory duties they were intended to clarify.

*E. Purpose of Incarceration Has No Relevance to Board Functions*

Petitioner finally contends that, “[a]t the time most inmates under [the board’s] jurisdiction . . . were sentenced the legislature had declared that the purpose of incarceration for crime is punishment.” However, Peti-

tioner does not identify how this claim relates to the regulatory language he is requesting be removed. Again, the board’s parole suitability analysis is an assessment of an inmate’s current dangerousness. (*In re Lawrence* (2008) 44 Cal.4th 1181, 1205.) The retributive theory of punishment has no relevance to the regulatory language in question or the board’s parole suitability analysis.

Petitioner suggests that the regulatory language at issue is being misused by parole suitability hearing panels to “defer a next hearing for determinately sentenced inmates beyond the date when they will be released regardless of consideration of dangerousness.” Thus, Petitioner states the regulatory language should be removed from subdivision (a) of section 2402, and presumptively section 2422, of Title 15 of the California Code of Regulations “for clarity so that Board panels do not continue to make this error.” However, Petitioner’s arguments are based on misunderstandings or misapplications of the laws that govern board actions. Since these regulations accurately capture the board’s lawful responsibilities, the board must decline petitioner’s request.

**6. BOARD CONTACT PERSON:**

**Christopher Hoeft**  
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 Board of Parole Hearings  
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**7. NOTICE TO INTERESTED PERSONS:** Under subdivision (d) of Government Code section 11340.7, the board will provide a copy of this decision to the Office of Administrative Law for publication in the California Regulatory Notice Register. Any interested persons have the right to obtain a copy of the petition that is the subject of this decision by sending a request to the board. In submitting such a request, please reference **BPH PETITION RESPONSE 2017-03** in the request.

**DATE OF DECISION: July 5, 2017**

**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 indi-

cated. 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# 2017-0608-05  
**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**  
 CTCAC Regulation Implementing Federal and State Low Income Housing Tax Credit (LIHTC) Laws

This action by the California Tax Credit Allocation Committee (Committee) amends title 4, section 10325.5 of the California Code of Regulations regarding the federal and state Low Income Housing Tax Credit programs. Pursuant to subdivision (a) of section 50199.17 of the Health and Safety Code, the Committee may adopt and amend regulations for the allocation of housing credits pursuant to that chapter and other specified sections of the Revenue and Taxation Code without complying with the procedural requirements of Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of the Government Code, except as provided in subdivision (b).

Title 4  
 AMEND: 10325.5  
 Filed 07/12/2017  
 Effective 05/17/2017  
 Agency Contact: Gina Ferguson (916) 651-7707

File# 2017-0531-04  
**DEPARTMENT OF CORRECTIONS AND REHABILITATION**  
 Parole Holds and Revocation

This regulatory action by the California Department of Corrections and Rehabilitation amends sections in CCR title 15, regarding parole holds and revocation. The changes implement Penal Code section 3000.08 regarding the handling and filing of a petition to revoke parole in court and the forms used to notify a parolee of their rights under the Americans with Disabilities Act while in custody at a county jail pending parole revocation proceedings.

Title 15  
 AMEND: 3000, 3753, 3754, 3763, 6766, 3769.6  
 Filed 07/12/2017  
 Effective 10/01/2017  
 Agency Contact: Josh Jugum (916) 445-2228

File# 2017-0530-02  
**DEPARTMENT OF FOOD AND AGRICULTURE**  
 Asian Citrus Psyllid Interior Quarantine

This certificate of compliance by the Department of Food and Agriculture makes permanent the emergency action that expanded the quarantine area for the Asian

Citrus Psyllid (ACP) in the Taft area of Kern County. (See OAL File No. 2016-1129-03E.) The effect of this action is to provide authority for the state to perform quarantine activities against ACP within this area.

Title 3  
 AMEND: 3435(b)  
 Filed 07/10/2017  
 Effective 07/10/2017  
 Agency Contact: Sara Khalid (916) 403-6625

File# 2017-0630-02  
 DEPARTMENT OF FOOD AND AGRICULTURE  
 Huanglongbing Disease Interior Quarantine

This emergency action by the Department of Food and Agriculture expands the quarantine area for the Huanglongbing (HLB) disease by approximately two square miles in the San Gabriel area of Los Angeles County in response to the confirmation of HLB on May 26, 2017. As a result of this expansion the total area under quarantine in Los Angeles and Orange Counties will be approximately 404 square miles. This emergency action provides authority for the state to perform quarantine activities against HLB within this area.

Title 3  
 AMEND: 3439(b)  
 Filed 07/06/2017  
 Effective 07/06/2017  
 Agency Contact: Sara Khalid (916) 403-6625

File# 2017-0630-03  
 DEPARTMENT OF FOOD AND AGRICULTURE  
 Huanglongbing Disease Interior Quarantine

This emergency action expands the quarantine area for the Huanglongbing (HLB) disease in the Anaheim area of Orange County.

Title 3  
 AMEND: 3439(b)  
 Filed 07/06/2017  
 Effective 07/06/2017  
 Agency Contact: Sara Khalid (916) 403-6625

File# 2017-0630-04  
 DEPARTMENT OF FOOD AND AGRICULTURE  
 Asian Citrus Psyllid Interior Quarantine

This emergency regulatory action by the Department of Food and Agriculture expands the quarantine area for the Asian Citrus Psyllid (ACP) (*Diaphorina citri*) by approximately 125 square miles in the Roseville area of Placer County and into Sacramento County. The amendment provides authority for the state to perform quarantine activities against ACP within this additional area.

Title 3  
 AMEND: 3435(b)  
 Filed 07/06/2017  
 Effective 07/06/2017  
 Agency Contact: Sara Khalid (916) 403-6625

File# 2017-0531-02  
 DEPARTMENT OF HEALTH CARE SERVICES  
 Form Number change (Section 51490.1)

This is a change without regulatory effect made pursuant to section 100 of title 1 of the California Code of Regulations. In this action, the Department of Health Care Services is making clarifying changes to form DHCS 6700, "Multiple Billing Override Certification."

Title 22  
 AMEND: 51490.1  
 Filed 07/10/2017  
 Agency Contact: Abdul Amiri (916) 552-9283

File# 2017-0608-04  
 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
 Income Limits

This regulatory action by the Department of Housing and Community Development is the annual update of income limits for households of varying sizes. The Department transmitted this action to OAL for filing with the Secretary of State and publishing in the California Code of Regulations pursuant to Health and Safety Code section 50093. This filing is exempt from the rule-making requirements of Articles 5 and 6 of Chapter 3.5 of the Administrative Procedure Act, and thus, is not subject to OAL's review. (Health & Saf. Code, § 50093.) This regulation is effective 6/8/2017, the date the regulation was filed with OAL pursuant to Health and Safety Code section 50093.

Title 25  
 ADOPT: 6932 REPEAL: 6932  
 Filed 07/12/2017  
 Effective 06/08/2017  
 Agency Contact: Jennifer Seeger (916) 263-2297

File# 2017-0531-01  
 DEPARTMENT OF PESTICIDE REGULATION  
 Copper-Based Antifouling Paints & Coatings

This rulemaking action by the Department of Pesticide Regulation requires registrants of all new copper-based antifouling paint and coating (AFP) products to submit estimated leach rate data as a requirement for registration, and establishes a maximum allowable copper leach rate for copper-based AFP products registered in California for use on recreational vessels.

Title 3  
 ADOPT: 6190  
 Filed 07/12/2017  
 Effective 01/01/2018  
 Agency Contact:  
 Linda Irokawa-Otani (916) 445-3991

File# 2017-0606-02  
 FISH AND GAME COMMISSION  
 Livermore Tarplant — Plants of California Declared to be Endangered

This action by the Fish and Game Commission adds *Deinandra bacigalupii* (Livermore tarplant) to the list of plants declared to be endangered in California.

Title 14  
 AMEND: 670.2  
 Filed 07/12/2017  
 Effective 10/01/2017  
 Agency Contact: Sheri Tiemann (916) 654-9872

File# 2017-0523-06  
 OFFICE OF THE STATE FIRE MARSHAL  
 Hazardous Liquid Pipelines — Annual Inspections — Website address

Without regulatory effect, this action amends an informative and discretionary web address on the Instructions for Form PSD-101 to an updated federal website about earthquake faults.

Title 19  
 AMEND: 2021  
 Filed 07/06/2017  
 Agency Contact: Diane Arend (916) 324-9592

File# 2017-0523-07  
 PHYSICAL THERAPY BOARD OF CALIFORNIA  
 Stats. of 2013, C. 338 Changes

This action by the Physical Therapy Board of California makes proposes to make changes without regulatory effect relating to statutory provisions amendments pursuant to Statutes 2013, chapter 338 (SB 198) and Statutes 2013, chapter 620 (AB 1000).

Title 16  
 AMEND: 1398.3, 1398.4, 1398.6, 1398.15, 1398.20, 1398.21, 1398.21.1, 1398.23, 1398.28, 1398.37, 1398.44, 1398.47, 1398.50, 1398.51, 1398.52, 1399, 1399.23, 1399.90, 1399.91, 1399.92, 1399.93, 1399.94, 1399.95, 1399.96, 1399.97, 1399.98, 1399.99 REPEAL: 1398.24, 1398.27, 1398.42  
 Filed 07/06/2017  
 Agency Contact: Brooke Arneson (916) 561-8260

File# 2017-0530-03  
 SECRETARY OF STATE  
 California New Motor Voter Program

The California Secretary of State (SOS) is adopting 8 new sections in title 2 of the California Code of Regulations. In 2015, AB 1461 (Chapter 729, Statutes of 2015) established the California New Motor Voter Program. This program allows those individuals utilizing the Department of Motor Vehicles to receive an original or renewal driver license or to process a change of address to be registered to vote. The DMV record of this transaction would constitute an affidavit of registration unless the individual declines to register or is ineligible to register. The regulations being adopted in this rulemaking establish the process to cancel a registration when an individual who is ineligible to vote becomes registered under the New Motor Voter program, if they do so without violating Election Code section 18100. Additionally this rulemaking establishes the education and outreach campaign by SOS to inform voters about the California New Motor Vehicle Voter program.

Title 2  
 ADOPT: 20060, 20061, 20062, 20063, 20064, 20065, 20066, 20067  
 Filed 07/12/2017  
 Effective 10/01/2017  
 Agency Contact: Jennifer Curtis (916) 695-1571

File# 2017-0606-01  
 STATE ATHLETIC COMMISSION  
 Weighing Time, Dehydration and Rehydration, and Time for Examinations

This certificate of compliance makes permanent the prior emergency actions that amended safety standards for licensees competing in combative sports. (See OAL File Nos. 2016-0608-02E, 2016-1128-02EE, 2017-0309-03EE.) The regulations establish an earlier weigh-in time, prohibit the use of intravenous therapies to rehydrate after weigh-in, and authorize ringside physicians to test contestants for signs of dehydration.

Title 4  
 ADOPT: 299 AMEND: 297, 300  
 Filed 07/12/2017  
 Effective 07/12/2017  
 Agency Contact: Sophia Cornejo (916) 263-2196

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN February 8, 2017 TO  
 July 12, 2017**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations

titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 2**

07/12/17 ADOPT: 20060, 20061, 20062, 20063, 20064, 20065, 20066, 20067  
 07/01/17 ADOPT: 171, 171.2, 174, 193.1, 193.2, 194, 195, 195.1, 195.2, 195.3, 242, 249.1, 249.2, 249.3, 249.4, 249.5, 249.6, 249.7, 250, 250.2, 265, 265.1, 548.53 AMEND: 156, 171.1, 174, 193, 258, 548.40, 548.41 REPEAL: 157, 171, 194, 195, 196, 198, 199, 199.1, 200, 205, 206, 210, 250, 265, 548.70  
 06/22/17 AMEND: 327  
 06/21/17 AMEND: 3700  
 06/19/17 AMEND: 1859.2, 1859.82  
 06/08/17 AMEND: 52.4, 548.49, 548.136  
 05/31/17 ADOPT: 249.8  
 05/26/17 AMEND: 11030, 11031, 11034  
 04/10/17 ADOPT: 552.1  
 03/27/17 ADOPT: 11017.1 AMEND: 11017  
 03/22/17 AMEND: 58000  
 03/21/17 ADOPT: 2299.01, 2299.02, 2299.03, 2299.04, 2299.05, 2299.06, 2299.07, 2299.08, 2299.09  
 03/03/17 ADOPT: 599.829.1  
 02/28/17 AMEND: 2270, 2271  
 02/16/17 ADOPT: 59820

**Title 3**

07/12/17 ADOPT: 6190  
 07/10/17 AMEND: 3435(b)  
 07/06/17 AMEND: 3439(b)  
 07/06/17 AMEND: 3439(b)  
 07/06/17 AMEND: 3435(b)  
 06/28/17 AMEND: 1358.7  
 06/26/17 AMEND: 3435(b)  
 06/22/17 ADOPT: 2320.5 AMEND: 2300, 2300.1, 2303, 2304, 2307, 2308, 2312, 2315, 2319, 2320.1, 2320.2, 2322, 2323, 2324  
 06/19/17 AMEND: 3435(b)  
 06/14/17 AMEND: 3435(b)  
 06/08/17 AMEND: 3435(b)  
 06/07/17 AMEND: 3435(b)  
 06/05/17 ADOPT: 3591.28  
 06/02/17 AMEND: 3435(d)  
 06/01/17 AMEND: 3591.12  
 05/30/17 AMEND: 3439(b)  
 05/15/17 AMEND: 3435(b)

05/15/17 AMEND: 3435(b)  
 05/09/17 AMEND: 3435(b)  
 05/08/17 AMEND: 1402.7, 1402.8  
 05/08/17 AMEND: 3439(b)  
 05/04/17 AMEND: 3435(b)  
 05/04/17 AMEND: 3435(b)  
 05/04/17 AMEND: 3591.15  
 04/24/17 AMEND: 3435(b)  
 04/24/17 AMEND: 3435(b)  
 04/20/17 AMEND: 3435(b)  
 04/18/17 AMEND: 3435(b)  
 04/17/17 AMEND: 3435(b)  
 04/17/17 AMEND: 3435(b)  
 04/07/17 AMEND: 3435(b)  
 04/04/17 AMEND: 3435(b)  
 03/30/17 AMEND: 3435(b)  
 03/30/17 AMEND: 3435(b)  
 03/28/17 AMEND: 3435(b)  
 03/28/17 AMEND: 3406(c), 3591.5(b)  
 03/24/17 AMEND: 3435(b)  
 03/14/17 AMEND: 3061  
 03/13/17 ADOPT: 2852.5 AMEND: 2850, 2851, 2852, 2853, 2854, 2855, 2856  
 03/07/17 AMEND: 3435(b)  
 03/02/17 AMEND: 3435(b)  
 02/28/17 ADOPT: 3070  
 02/27/17 ADOPT: 751, 751.1, 754.3, 754.4, 820.1, 830, 830.1, 830.2, 830.3, 830.4, 831, 831.1, 831.2, 831.3, 831.4, 831.5, 837, 838, 1302, 1302.1, 1302.2, 1302.3, 1302.4 AMEND: 752, 752.1, 752.2, 752.3, 752.4, 752.5, 752.6, 753, 753.1, 753.2, 754, 754.1, 754.2, 755, 755.1, 755.4, 756, 756.1, 758, 820, 820.3, 820.4, 820.5, 820.55, 820.6, 820.7 REPEAL: 753.3, 755.2, 755.3, 756.2, 756.3, 757, 758.1, 820.1, 820.2  
 02/24/17 AMEND: 3435(b)  
 02/21/17 AMEND: 3435(b)  
 02/16/17 AMEND: 3435(b)  
 02/13/17 AMEND: 3435(b)  
 02/13/17 AMEND: 3435(b)

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07/12/17 ADOPT: 299 AMEND: 297, 300  
 07/12/17 AMEND: 10325.5  
 06/20/17 AMEND: 1696  
 06/01/17 AMEND: 1433, 1845  
 05/31/17 AMEND: 1632  
 05/30/17 ADOPT: 5145, 5146, 5233 AMEND: 5000, 5020, 5031, 5033, 5050, 5051, 5054, 5061, 5062, 5063, 5106, 5144, 5170, 5191, 5192, 5194, 5200, 5220, 5230, 5240, 5250, 5255, 5258, 5260,

5300, 5342, 5350, 5370, 5400, 5450,  
5560, 5600 REPEAL: 5221  
05/08/17 ADOPT: 8078.8, 8078.9, 8078.10,  
8078.11, 8078.12, 8078.13, 8078.14  
05/04/17 AMEND: 10031, 10032, 10033, 10035,  
10036  
05/02/17 ADOPT: 10325.5 AMEND: 10337  
04/20/17 AMEND: 1581, 1843  
04/10/17 AMEND: 10170.3, 10170.8, 10170.9,  
10170.10, 10170.14  
03/14/17 ADOPT: 299 AMEND: 297, 300  
02/28/17 ADOPT: 6000, 6010, 6011, 6012, 6013,  
6014, 6020, 6021, 6022, 6023, 6024,  
6030, 6040, 6041, 6042, 6043, 6050,  
6051, 6052, 6053, 6060, 6061, 6062  
02/15/17 ADOPT: 8078.8, 8078.9, 8078.10,  
8078.11, 8078.12, 8078.13, 8078.14  
02/09/17 AMEND: 10302, 10315, 10317, 10320,  
10322, 10325, 10326, 10327, 10330,  
10335, 10337

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06/27/17 REPEAL: 13075, 13075.1, 13075.2,  
13075.3, 13075.4, 13075.5, 13075.6,  
13075.7, 13075.8, 13075.9  
06/26/17 AMEND: 19810  
06/14/17 AMEND: 41908  
06/05/17 ADOPT: 11517.6, 11518, 11518.5,  
11518.10, 11518.15, 11518.20,  
11518.25, 11518.30, 11518.35,  
11518.40, 11518.45, 11518.50,  
11518.55, 11518.60, 11518.65,  
11518.70, 11518.75, 11518.80, 11519,  
11519.5  
06/02/17 ADOPT: 11534.1 AMEND: 11530,  
11533, 11534  
05/30/17 ADOPT: 71396  
04/05/17 ADOPT: 75300 AMEND: 75200, 75210  
03/14/17 AMEND: 15495 REPEAL: 15497.5

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06/29/17 ADOPT: 9788.1, 9788.2, 9788.3, 9788.4  
06/29/17 AMEND: 344.18  
06/20/17 AMEND: 9789.39  
06/05/17 AMEND: 1637  
06/05/17 AMEND: 3220  
05/23/17 ADOPT: 20169 AMEND: 20170, 20234,  
20240, 20241, 20242, 20282, 20286,  
20363, 20393, 20400, 20401, 20402,  
20407, 20408  
05/16/17 AMEND: 20335(c)  
04/14/17 AMEND: 15203.2(d)  
04/04/17 AMEND: 5155  
03/27/17 AMEND: 9701, 9702  
03/20/17 AMEND: 4306  
03/14/17 AMEND: 17304

02/24/17 ADOPT: 10770.7 AMEND: 10770  
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06/13/17 ADOPT: 4700, 4710, 4711, 4712, 4713,  
4714, 4715, 4716, 4717  
03/15/17 ADOPT: 4700, 4710, 4711, 4712, 4713,  
4714, 4715, 4716, 4717  
02/13/17 ADOPT: 4600, 4601, 4602  
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06/21/17 ADOPT: 260.211.4, 260.211.5,  
260.211.6, 260.211.7  
04/17/17 ADOPT: 6520, 6522, 6528  
03/22/17 ADOPT: 8300, 8310, 8320, 8330, 8340,  
8350, 8360, 8370, 8380  
03/22/17 AMEND: 2218.30  
03/09/17 AMEND: 2911, 2912  
02/28/17 ADOPT: 8200, 8210, 8220, 8230  
02/21/17 AMEND: 2498.6  
02/21/17 AMEND: 2498.6  
02/21/17 ADOPT: 9000, 9001, 9002, 9003, 9004,  
9005, 9006, 9007  
02/16/17 ADOPT: 6408, 6410, 6450, 6452, 6454,  
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6482, 6484, 6486, 6490, 6492, 6494,  
6496, 6498, 6500, 6502, 6504, 6506,  
6508, 6510, 6600, 6602, 6604, 6606,  
6608, 6610, 6612, 6614, 6616, 6618,  
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02/15/17 AMEND: 2498.4.9  
02/09/17 AMEND: 2498.4.9  
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06/28/17 AMEND: 1005, 1007, 1008  
06/21/17 AMEND: 1015  
06/01/17 AMEND: 50.10  
06/01/17 AMEND: 50.13  
05/31/17 REPEAL: 50.18  
05/30/17 ADOPT: 2080, 2081, 2082, 2083, 2084,  
2085, 2086, 2087, 2088, 2089, 2090,  
2091, 2092, 2093, 2094, 2095, 2096,  
2097, 2098, 2099, 2100, 2101, 2102,  
2103, 2104, 2105, 2106, 2107, 2108,  
2109, 2120, 2130, 2131, 2132, 2133  
05/23/17 AMEND: 1001, 1005, 1008  
05/23/17 AMEND: 50.19  
05/23/17 AMEND: 50.20  
05/18/17 AMEND: 50.23  
05/18/17 AMEND: 50.12  
05/18/17 AMEND: 50.14  
05/16/17 AMEND: 50.8  
05/16/17 AMEND: 50.15  
05/16/17 AMEND: 50.21  
05/16/17 REPEAL: 50.22  
05/16/17 ADOPT: 50.22  
05/15/17 AMEND: 50.5  
05/15/17 REPEAL: 50.7

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05/15/17 AMEND: 50.6  
 05/15/17 AMEND: 50.16  
 05/15/17 AMEND: 50.17  
 02/21/17 AMEND: 1084

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06/29/17 AMEND: 1160.1, 1160.2, 1160.3, 1160.4  
 06/20/17 AMEND: 2775, 2775.1, 2775.2  
 06/19/17 AMEND: 205.00, 205.02, 205.04, 205.06, 205.08, 205.12, 205.14  
 06/12/17 AMEND: 156.00  
 05/15/17 AMEND: 16.06  
 04/19/17 AMEND: 26.01, 26.02  
 04/17/17 AMEND: 2222  
 04/06/17 AMEND: 1157.21  
 02/22/17 AMEND: 1153  
 02/21/17 ADOPT: 26.01, 26.02  
 02/21/17 AMEND: 553.70  
 02/16/17 ADOPT: 15.01 AMEND: 15.00

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07/12/17 AMEND: 670.2  
 06/02/17 ADOPT: 1090.28, 1094, 1094.1, 1094.2, 1094.3, 1094.4, 1094.5, 1094.6, 1094.7, 1094.8, 1094.9, 1094.10, 1094.11, 1094.12, 1094.13, 1094.14, 1094.15, 1094.16(a)-(d)(5), 1094.17, 1094.18, 1094.19, 1094.20, 1094.21, 1094.22, 1094.23, 1094.24, 1094.25, 1094.26, 1094.27, 1094.28, 1094.29, 1094.30, 1094.31, 1094.32, 1094.33, 1094.34, 1094.35 AMEND: 895, 895.1, 913.11 [933.11, 953.11], 916.5 [936.5, 956.5], 919.9 [939.9], 923 [943, 963], 923.2 [943.2, 963.2], 923.3 [943.3, 963.3], 923.4 [943.4, 963.4], 923.5 [943.5, 963.5], 923.9 [943.9, 963.9] 929 [949, 969], 945.1, 1038, 1090.26, 1104.1, 1115.3  
 05/26/17 AMEND: 7.50  
 05/08/17 ADOPT: 18651.10, 18657.0, 18657.1 AMEND: 18600, 18601, 18611, 18612, 18613, 18614, 18614.1, 18616, 18619.1, 18619.2, 18619.3, 18619.4, 18619.5, 18620, 18621, 18622, 18623, 18624, 18625, 18626, 18627, 18631, 18632, 18633, 18634, 18641, 18642, 18643.0, 18643.2, 18643.3, 18643.4, 18643.5, 18643.6, 18643.7, 18650.1, 18650.2, 18650.3, 18650.4, 18650.5, 18650.6, 18650.61, 18650.7, 18650.8, 18650.9, 18651.0, 18651.1, 18651.2, 18651.3, 18651.4, 18651.5, 18651.6, 18651.7, 18651.8, 18651.9, 18653.0, 18653.1, 18653.2, 18653.3, 18653.4, 18653.5, 18653.6, 18655.1, 18655.2, 18655.3, 18655.5, 18655.51, 18655.6, 18655.7, 18655.8, 18656.0 REPEAL: 18615, 18643.1, 18655.4, 18655.9, 18658.0, 18658.1, 18658.2, 18658.3, 18659.0, 18659.1, 18659.2, 18659.3, 18659.4, 18659.5  
 05/03/17 ADOPT: 1265.00, 1265.01, 1265.02, 1265.03  
 05/01/17 AMEND: 27.80  
 05/01/17 AMEND: 28.20  
 04/18/17 AMEND: 1038  
 04/13/17 ADOPT: 3805.1  
 04/12/17 ADOPT: 111  
 04/03/17 ADOPT: 17403.3.1 AMEND: 17402, 17403.0, 17405.0  
 03/27/17 AMEND: 27.80  
 03/17/17 AMEND: 550, 550.5, 551, 552, 630, 702, 703  
 03/16/17 ADOPT: 18660.47, 18660.48, 18660.49, 18660.50, 18660.51 AMEND: 18660.5, 18660.20  
 03/14/17 REPEAL: 8600  
 03/07/17 ADOPT: 749.9  
 03/03/17 ADOPT: 16500  
 03/02/17 ADOPT: 748.6  
 03/02/17 ADOPT: 54.00, 54.01, 54.02, 54.03, 122.1, 122.2 AMEND: 29.80, 29.90, 121, 121.5, 122, 705  
 02/28/17 AMEND: 1.74, 5.05, 5.20, 5.35, 5.40, 5.60, 7.00, 7.50, 29.45, 43, 671  
 02/27/17 ADOPT: 715 AMEND: 702  
 02/17/17 AMEND: 895, 895.1, 898.2, 912.5, 913.4, 914.1, 915.3, 916.2, 916.5, 916.8, 916.9, 916.11, 919.2, 919.3, 919.5, 919.9, 919.11, 919.12, 921.1, 921.6, 926.3, 927.12, 953.9, 959.15, 961.1, 1020, 1024.5, 1036.1, 1037.3, 1037.5, 1051, 1051.1, 1051.4, 1051.5, 1052.3, 1052.4, 1052.5, 1054.3, 1055, 1055.2, 1056, 1056.1, 1056.2, 1056.3, 1090.5, 1090.10, 1090.17, 1092.16, 1092.18, 1092.27, 1100, 1153 REPEAL: 926.21  
 02/17/17 AMEND: 632

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07/12/17 AMEND: 3000, 3753, 3754, 3763, 6766, 3769.6  
 06/28/17 ADOPT: 1712.4, 1714.4, 1730.4, 1740.4 AMEND: 1700, 1706, 1731, 1747, 1747.1, 1748, 1748.5, 1749, 1749.1, 1750, 1750.1, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792

06/27/17 AMEND: 3620, 3621, 3622  
 06/08/17 ADOPT: 8106.2 AMEND: 8106.1  
 05/23/17 ADOPT: 3570, 3572, 3573, 3580  
 AMEND: 3560, 3561, 3562, 3563, 3564,  
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 05/11/17 ADOPT: 3999.23  
 04/17/17 AMEND: 3000, 3030, 3190, 3269  
 04/13/17 ADOPT: 2449.1, 2449.2, 2449.3, 2449.4,  
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 3044 REPEAL: 3042, 3043.1, 3043.2,  
 3043.3, 3043.4, 3043.7  
 04/03/17 ADOPT: 3999.22  
 03/22/17 AMEND: 8006  
 03/21/17 ADOPT: 8900 AMEND: 8901  
 03/14/17 AMEND: 8004, 8004.3  
 03/07/17 AMEND: 3332, 3343  
 02/22/17 AMEND: 3173.2  
 02/09/17 AMEND: 3000, 3090, 3177, 3323, 3375,  
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07/06/17 AMEND: 1398.3, 1398.4, 1398.6,  
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 1398.23, 1398.28, 1398.37, 1398.44,  
 1398.47, 1398.50, 1398.51, 1398.52,  
 1399, 1399.23, 1399.90, 1399.91,  
 1399.92, 1399.93, 1399.94, 1399.95,  
 1399.96, 1399.97, 1399.98, 1399.99  
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 06/23/17 AMEND: 2649  
 06/22/17 AMEND: 80.1, 80.2, 87, 87.1  
 06/12/17 AMEND: 1399.546  
 06/08/17 ADOPT: 1746.5  
 06/07/17 ADOPT: 1399.407, 1399.407.1,  
 1399.407.2, 1399.407.3  
 06/06/17 ADOPT: 1776, 1776.1, 1776.2, 1776.3,  
 1776.4, 1776.5, 1776.6  
 06/05/17 AMEND: 1387, 1387.1  
 05/31/17 REPEAL: 3036.1, 3036.2, 3037.1,  
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 05/30/17 AMEND: 1703  
 05/24/17 ADOPT: 1001.1, 1001.2  
 05/24/17 AMEND: 1399.395  
 05/24/17 AMEND: 1399.434, 1399.437 REPEAL:  
 1399.436  
 05/10/17 AMEND: 426.10, 426.14, 426.50  
 05/08/17 ADOPT: 1398.26.3 AMEND: 1398.25  
 05/04/17 AMEND: 4130  
 03/27/17 AMEND: 1105.2

03/21/17 AMEND: 1803, 1812, 1813, 1814,  
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 1822.52, 1829.1, 1829.2, 1829.3, 1846,  
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 1886.30, 1886.50, 1886.60, 1886.70,  
 1886.80, 1887, 1887.2, 1887.3, 1887.4.0,  
 1887.4.1, 1887.4.2, 1887.4.3, 1887.11.0  
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 03/20/17 AMEND: 1732.05, 1732.2, 1732.5  
 03/20/17 AMEND: 1751, 1751.4  
 03/14/17 ADOPT: 3063.4 AMEND: 472, 472.1,  
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 473.3, 473.4, 3062, 3062.1, 3062.2,  
 3062.3, 3062.4, 3063, 3063.1, 3063.3  
 (renumbered as 3063.2), 3063.4  
 (renumbered as 3063.3).  
 03/02/17 AMEND: 1707.5  
 02/23/17 AMEND: 1399.672  
 02/09/17 AMEND: 9.1

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05/10/17 ADOPT: 51000, 51001, 51002  
 05/09/17 ADOPT: 59050, 59051, 59052, 59053,  
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 59069, 59070, 59071, 59072  
 04/24/17 ADOPT: 51000, 51001, 51002  
 04/17/17 AMEND: 60201  
 04/17/17 ADOPT: 6500.03, 6500.05, 6500.9,  
 6500.21, 6500.33, 6500.43, 6500.51,  
 6500.55, 6500.58, 6500.71, 6500.78  
 AMEND: 6500.35, 6500.39, 6500.45,  
 6500.50, 6501, 6501.5, 6505, 6506,  
 6506.6, 6506.8, 6506.10 REPEAL:  
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 04/13/17 ADOPT: 95364.1 AMEND: 95362,  
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 03/23/17 AMEND: 95000  
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06/19/17 AMEND: 1703  
 06/14/17 AMEND: 5332  
 05/24/17 ADOPT: 19195-1, 19195-2  
 05/15/17 AMEND: 263  
 05/15/17 AMEND: 1051  
 05/03/17 ADOPT: 4001

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03/17/17 AMEND: 1703  
03/09/17 AMEND: 1532, 1533.1, 1533.2, 1534, 1535, 1598

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07/06/17 AMEND: 2021  
05/01/17 AMEND: 2020, 2021  
03/24/17 ADOPT: 920, 921, 922, 923, 924, 924.1, 924.2, 924.3, 924.4, 924.5, 924.6, 924.7, 924.8, 924.9, 924.10, 924.11, 924.12, 925, 925.1, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 946.1, 947, 948  
02/09/17 ADOPT: 2020, 2021, 2030 AMEND: 2000

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03/27/17 AMEND: 2909  
03/27/17 AMEND: 1602, 1606  
03/27/17 AMEND: 1606, 1607

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05/25/17 ADOPT: 1478.1, 1478.2 AMEND: 1476

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07/10/17 AMEND: 51490.1  
07/03/17 AMEND: 97700.1, 97700.2, 97700.3, 97700.4, 97700.5, 97700.6, 97700.7, 97700.8, 97700.13, 97700.15, 97700.17, 97700.18, 97700.19, 97700.20, 97700.21, 97700.23, 97700.25, 97700.26, 97700.27, 97700.29, 97700.31, 97700.32, 97700.33, 97700.35, 97700.41, 97700.43, 97700.45, 97700.47, 97700.49, 97700.51, 97700.53, 97700.55, 97700.57, 97700.59, 97700.61, 97700.63, 97700.65, 97720, 97722, 97724, 97726, 97730, 97731, 97732, 97734, 97735, 97737, 97740, 97743, 97745, 97747, 97750, 97752, 97755, 97757, 97759, 97760  
05/11/17 ADOPT: 100057.1, 100057.2 AMEND: 100057, 100059, 100059.1, 100059.2, 100061, 100062, 100063, 100064, 100069, 100070, 100072, 100073, 100074, 100075, 100079, 100080, 100081, 100083  
04/19/17 ADOPT: 69511, 69511.1  
04/18/17 REPEAL: 97770, 97771, 97772  
04/10/17 ADOPT: 64300, 64305, 64310, 64315  
03/27/17 AMEND: 51121

03/16/17 AMEND: 20100.5  
03/09/17 AMEND: 64806

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06/21/17 AMEND: 81001  
05/09/17 AMEND: 87163, 87217, 87775  
05/02/17 AMEND: 80001, 80061, 81001, 81061, 82001, 82061, 82065, 87101, 87211  
04/27/17 AMEND: 101216.4, 101417  
02/09/17 ADOPT: 85300, 85301, 85302, 85322, 85361, 85365, 85368, 85368.2, 85368.3, 85369, 85375, 89900, 89901, 89918, 89920, 89922, 89940, 89942, 89964, 89965, 89968.1, 89968.2, 89970, 89987, 89990 AMEND: 80001, 80020, 80022, 80028, 80065, 80068, 80070, 80072, 80087, 85000, 85068.2

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06/29/17 ADOPT: 1030, 1032, 1040, 1041, 1042, 1043, 1044, 1045, 1046  
06/28/17 ADOPT: 3010  
06/22/17 ADOPT: 3939.52  
06/09/17 AMEND: 865 REPEAL: 864.5, 866  
05/18/17 AMEND: 3939.23  
05/16/17 ADOPT: 3939.51  
03/16/17 ADOPT: 3929.15  
03/08/17 ADOPT: 3949.12  
03/07/17 ADOPT: 6000, 6001, 6002, 6003, 6004, 6005, 6006, 6007, 6008, 6009, 6010, 6011, 6012, 6013, 6014, 6015  
02/27/17 ADOPT: 863, 864, 864.5, 865, 866

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07/12/17 ADOPT: 6932 REPEAL: 6932

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05/11/17 REPEAL: 25607.30, 25607.31  
05/04/17 AMEND: 25705  
05/03/17 AMEND: 25805  
04/04/17 AMEND: 25805  
03/21/17 AMEND: 27000  
02/08/17 AMEND: 27001

**Title 28**

06/27/17 AMEND: 1300.67.005  
03/21/17 AMEND: 1300.67.241

**Title MPP**

06/19/17 AMEND: 40-188, 44-207, 44-316, 44-318, 80-310, 82-518, 82-812 REPEAL: 44-314  
05/01/17 AMEND: 44-211  
04/25/17 AMEND: 44-211  
04/04/17 AMEND: 40-105, 40-131, 40-161