



California Regulatory Notice Register

REGISTER 2017, NO. 30-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JULY 28, 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.

CALIFORNIA REGULATORY NOTICE REGISTER is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 328-4880. The Register can also be accessed at <http://www.oal.ca.gov>.

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: Department of Fair Employment and Housing

MULTI-COUNTY: Calistoga Joint Unified School District
Pierce Joint Unified School District

A written comment period has been established commencing on July 28, 2017, and closing on September 11, 2017. Written comments should be directed to the Fair Political Practices Commission, Attention Cesar Cuevas, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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 per-

son, 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 11, 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, 1102 Q Street, Suite 3000, Sacramento, California 95811, 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, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Division 3. Economics

Chapter 1. Fruit and Vegetable Standardization Subchapter 4. Fresh Fruits, Nuts and Vegetables

Article 11. Avocados

1408.22 Avocados, Fruit Dropped by Extreme Winds

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed actions.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted via facsimile (FAX) at (916) 900-5345 or by e-mail to steve.patton@cdfa.ca.gov. The written comment period closes at **5:00 p.m. on September 11, 2017**. The Department will consider only comments received at the Department by that time. Submit comments to:

Steve Patton, Branch Chief
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
Telephone: (916) 900-5030
Fax: (916) 900-5345

AUTHORITY AND REFERENCE

Sections 14, 407, 42681, 42682, 42683, and 42941 of the Food and Agricultural Code authorize the Department to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Sections 42681, 42682, and 42941 of the Food and Agricultural Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action amends California Code of Regulations (CCR) Title 3, Division 3, Subchapter 4, Article 11, Section 1408.22.

Section 14 of the Food and Agricultural Code authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in this section grants the California Department of Food and Agriculture Secretary the authority to amend or repeal rules and regulations.

Section 407 of the Food and Agricultural Code authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which the Secretary is directed or authorized to administer or enforce.

Section 42681 of the Food and Agriculture Code authorizes that the director [Secretary] by regulation may prescribe methods of selecting samples of lots or containers of fruits, nuts, and vegetables on a basis of size or other specific classification, which are reasonably calculated to produce by such sampling fair representations of the entire lots or containers which are sampled, and make such other regulations as are reasonably necessary to secure uniformity in the enforcement of this division.

Section 42682 of the Food and Agricultural Code authorizes the director [Secretary] may upon petition of a person that the director [Secretary] finds has a substantial interest in the growing or handling of the particular fruit, nut, or vegetable involved, establish, modify, or rescind by the regulation which initially took effect January 1, 1971, standard container, lid, marking, sizing requirements for commodities, and packing arrangements for any fruits, nuts, or vegetables, for which specific quality standards have otherwise been provided by law or regulation.

Section 42683 of the Food and Agricultural Code authorizes that the director [Secretary], in promulgating regulations concerning standard containers, lids, marking, sizing, consumer packages or packing requirements for fruits, nuts, and vegetables, will consider such factors as the ease of handling, identification, federal

laws, rules or regulations, containers, lids and packs in substantial use in the industry and the competitive position of the California fruit, nut, and vegetable industry.

Section 42941 of the Food and Agricultural Code mandates that it is unlawful for any person to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, cause to be transported, or sell any fruits, nuts, and vegetables in bulk, or in any container or subcontainer, unless such fruits, nuts, and vegetables, and their containers, conform to the provisions of this division or the regulations promulgated thereunder.

The Food Safety Modernization Act was signed into law by President Obama in 2011. Federal regulations related to on-farm food safety were promulgated in 2014. It is the Food and Drug Administration's (FDA) strategy of prevention rather than reaction to food safety events. The regulations cover such activities as water testing, personal worker hygiene, cleaning of equipment, biological soil amendments, and wildlife intrusion. These rules were adopted after a considerable public comment period in which all affected parties had the opportunity to provide input.

The California Code of Regulations Title 3, Division 3, Subchapter 4, Article 11, Section 1408.22 provides an allowance for avocados dropped to the ground as a result of extreme winds. This section gives the department discretion for the qualification of time period determining the "extreme winds" and factors to identify "windfall fruit". It further allows for maturity testing and upon passage of that test, release for marketing of such fruit.

The Federal Produce Safety Rule subpart K, Section 112.114 expressly prohibits distribution of produce that drops to the ground before harvest except for produce dropped intentionally as part of the normal harvest activity (e.g., some tree nuts). Due to the federal prohibition of this previously accepted practice, it is necessary to repeal the California regulation allowing windfall avocados to be sold. This will prevent California producers from potential violations as a result of conflicting laws.

Consumers will benefit because fruit will no longer be able to be sold after coming into contact with the ground thereby minimizing potential contamination.

CONSISTENCY EVALUATION

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

Other nondiscretionary 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 the ability of California businesses to compete with businesses in other states: None.

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

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes that it is (1) unlikely that the proposal will eliminate/create any jobs and/or eliminate existing business; (2) unlikely that this proposal may create new business or expand current business opportunities for producers and packers of avocados; (3) unlikely that this proposal may create new businesses for avocado handlers; lastly, the proposed rulemaking will create an indirect impact to the protection of public health and safety.

Benefits of the Proposed Action: The proposed regulation will benefit California Consumers because fruit will no longer be able to be sold after coming into contact with the ground, thereby minimizing potential contamination.

Significant effect on housing costs: None.

SMALL BUSINESS DETERMINATION

The Department has initially determined that the proposed changes to the regulations would result in no added costs to small businesses affected by these proposed changes. This proposed regulatory action will eliminate the Departments discretion for the qualification of time period determining the "extreme winds" and factors to identify "windfall fruit". It further eliminates the allowance for maturity testing and upon passage of that test, release for marketing of such fruit.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Steve Patton, Branch Chief
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
Telephone: (916) 900-5030
Fax: (916) 900-5345

The backup contact person for these inquiries is:

Laurel Rudolph, AGPA
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
Telephone: (916) 900-5233
Fax: (916) 900-5345

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Laurel Rudolph at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at: 2800 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833. As of the date this notice is published in the Notice Register, the rule-

making file consists of this notice; the proposed text of the regulations; the initial statement of reasons; and petitions received from industry. Copies may be obtained by contacting Laurel Rudolph at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Laurel Rudolph at the address listed above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Department's website at: <http://www.cdfa.ca.gov/is/Regulations.html>.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Division 3. Economics

Chapter 1. Fruit and Vegetable Standardization Subchapter 4. Fresh Fruits, Nuts and Vegetables Article 6.1 State Organic Program

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed actions.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted via facsimile (FAX) at (916) 900-5345 or by e-mail to steve.patton@cdfa.ca.gov. The written comment period closes at **5:00 p.m. on September 11, 2017**. The Department will consider only comments received at the Department by that time. Submit comments to:

Steve Patton, Branch Chief
 Inspection and Compliance Branch
 California Department of Food and Agriculture
 1220 N Street
 Sacramento, CA 95814
 Telephone: (916) 900-5030
 Fax: (916) 900-5345

AUTHORITY AND REFERENCE

Food and Agricultural Code (FAC) section 14 authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in the FAC grants the Department Secretary the authority to amend or repeal rules and regulations.

FAC section 407 authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the FAC which the Secretary is directed or authorized to administer or enforce.

INFORMATIVE DIGEST/POLICY STATEMENT
 OVERVIEW

This rulemaking action amends Title 3, Division 3, Chapter 1, Subchapter 4, Article 6.1; sections 1391 Intent, 1391.1 Organic Inspection and Sampling Authority, 1391.3 Complaint Investigations, and adds section 1391.7 Registration Requirements. Specifically, this rulemaking action clarifies the commodity categories, makes specific the acreage information required for or-

ganic registration, and makes aggregate gross sales a requirement for registration.

FAC section 46000 authorizes that this chapter and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code shall be known and may be cited as the California Organic Food and Farming Act.

The secretary and county agricultural commissioners under the supervision and direction of the secretary shall enforce regulations adopted by the National Organic Program (NOP) (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code and this act applicable to any person selling products as organic.

FAC section 46001 authorizes that this chapter shall be interpreted in conjunction with Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code and regulations adopted by the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)).

FAC section 46002 authorizes that all organic food or product regulations and any amendments to those regulations adopted pursuant to the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.), that are in effect on the date this bill is enacted or that are adopted after that date, shall be the organic food and product regulations of this state.

The secretary may, by regulation, prescribe conditions under which organic foods or other products not addressed by the National Organic Program may be sold in this state.

FAC section 46004.1(b) authorizes that "Act" means the California Organic Food and Farming Act. It also means the federal organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the regulations adopted pursuant to the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.).

FAC section 46013.1(d)(1) authorizes that the information provided on the registration form shall include all of the following:

The nature of the registrant's business, including the categorical products produced, handled, or processed that are sold as organic. For the purposes of registration, organic products shall be reported in accordance with the following specified categories unless the secretary, in consultation with the California Organic Products Advisory Committee, establishes different categories.

FAC sections 46013.1(e)(1) through 46013.1(e)(6) establish the fee structure and specifies, in part, the types of operations that must register with the SOP and pay a fee. These regulations may include provisions to ensure organic integrity, while maintaining quality and

wholesomeness of the products, and ensuring that the selling activities are conducted without fraud, deception, or misrepresentation.

The California State Organic Program ensures that organic producers, and those engaged in the marketing and selling of organic products are complying with organic program statutes and regulations, which are in place to ensure the integrity of the organic supply chain from production to final sale. (There are currently 4,500 registered organic operations in California). These statutes and regulations are intended to promote consumer confidence in the organic industry by ensuring that production and selling activities are conducted without fraud, deception, or misrepresentation.

On September 21, 2016, Assembly Bill (AB) 1826 (Stone) (Chapter 403, Statutes of 2016) was enacted. This measure modified various sections of the FAC related to organic program registration, administration, and enforcement. Specifically, this bill reduced the number of commodity categories, the types of operations required to register, and the information from organic operations that are required for registration. These changes bring the need for regulatory action to amend existing regulations with the newly enacted statutes provided in AB 1826 (Stone) (Chapter 403, Statutes of 2016). This action provides the following:

- Expansion of the commodity categories required for organic registration, in order to obtain more accurate and relevant information for enforcement and reporting purposes.
- Adding the collection of acreage by commodity, to provide confirmation that what is being sold as organic can be supported by what is being grown.
- Adding the collection of total gross sales to provide clarity that an aggregate of total gross sales is required, and not gross sales for each commodity.

Benefits of the Proposed Action: This proposed regulatory action will assist in clarifying and making specific the requirements for organic registration. This will ensure that county agricultural commissioners and the Department are able to obtain specific and relevant information to conduct enforcement and investigate claims of fraudulent activities, in a collaborative and seamless manner. The benefits of this proposed regulatory action include increased consumer confidence, the promotion of a fair and equitable marketplace for organic producers and market operators, and greater collaboration among state and county partners. This regulatory action is intended to protect and promote the organic industry.

CONSISTENCY EVALUATION

The Department has determined that this proposed regulatory action is not inconsistent with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the Organic Program.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

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

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

Other nondiscretionary 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 the ability of California businesses to compete with businesses in other states: None.

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

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes that it is: (1) likely that the proposal will not create or eliminate jobs and not eliminate existing business; (2) likely that this proposal will not create new business or expand current business opportunities; (3) likely that this proposal will not eliminate jobs; (4) also, likely that enhanced enforcement activities will protect consumers and the industry, and assure that consumers are purchasing organic produce. Finally, this proposed rulemaking will have no impact on the general public and protection of public health and safety.

Significant effect on housing costs: None.

SMALL BUSINESS DETERMINATION

The Department has initially determined that the proposed changes to the regulations would have no signifi-

cant impact directly affecting small businesses. All organic operations would be operating under the same regulatory structure with regards to the regulatory changes.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Steve Patton, Chief
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
Telephone: (916) 900-5030
Fax: (916) 900-5345

The backup contact person for these inquiries is:

Danny Lee, Supervising Special Investigator
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
Telephone: (916) 900-5030
Fax: (916) 900-5345

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Danny Lee at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at: 2800 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Danny Lee at the address or phone number listed previously.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Danny Lee at the address listed previously.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikethrough can be accessed through the Department's website at: <http://www.cdfr.ca.gov/is/Regulations.html>.

TITLE 5. BOARD OF EDUCATION

AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5, REGARDING CALIFORNIA EDUCATION FOR A GLOBAL ECONOMY INITIATIVE

NOTICE IS HEREBY GIVEN that the State Board of Education (SBE) proposes to adopt the regulations

described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing at 1:30 p.m. on September 11, 2017, at 1430 N Street, Room 1801, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Patricia Alverson, Regulations Coordinator
Administrative Support and Regulations Adoption
Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

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

Comments must be received by the Regulations Coordinator prior to 5:00 p.m. on September 11, 2017. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public

hearing, or who have requested notification of any changes to the proposed regulations.

AUTHORITY AND REFERENCE

Authority: Section 33031, Education Code.

References: Sections 305, 306, 310, 313, 18100, 18101, 44253.3, 44253.4, 48980, 48981, 48985, 51210.2, 51222, 52060, 52062, 52063, 52064, 52066, 52067, 52068, 52069, 56028, 56055, 60605, 60605.1, 60605.2, 60605.3, 60605.4, 60605.5, 60605.8, 60605.11, and 60605.13, Education Code; Sections 361 and 727, Welfare and Institutions Code; 20 U.S.C. Sections 1703, 6311, and 6318; Sections 11308, 15495(b), and 15496(f), Title 5 California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In November 2016, California voters approved Proposition 58, initiated by Senate Bill 1174, Statutes of 2014, Section 5, and referred to as the California Education for a Global Economy (CA Ed.G.E.) Initiative. This initiative amends California *Education Code (EC)* sections 300, 305, 306, 310, 320, and 335, and repeals *EC* Section 311, all of which were enacted in 1998 with the voter approved Proposition 227. The amended statutes in the CA Ed.G.E. Initiative became operative July 1, 2017.

The enactment of the CA Ed.G.E. Initiative affects current sections 11300, 11301, 11309, 11310, and 11316 of the Title 5 of the *Code of Regulations (5 CCR)*, which currently implement Proposition 227. The applicable language in each section will be modified or replaced with language implementing *EC* sections 300, 305, 306, and 310, as amended by Proposition 58. Additionally, sections 11311 and 11312 are added to 5 *CCR* to address parent requests for language acquisition programs and language programs.

The CA Ed.G.E. Initiative acknowledges the benefits that multilingual education provides students toward participation in a global economy. It provides opportunities for English learners and native speakers of English to participate in a program that leads to proficiency in English and another language, if so desired. The acquisition of English as rapidly and as effectively as possible for English learners continues to be a state priority.

School districts, county offices of education, schools, and parents seek direction regarding the implementation of the CA Ed.G.E. Initiative. These regulations will provide specificity not included in the statute, thus aiding school districts and county offices of education to comply with the provisions of the law. Clear direction is particularly needed to ensure districts and county offices of education engage with parents and the commu-

nity with respect to the provision of language acquisition programs.

Anticipated Benefits of the Proposed Regulation

The proposed regulations are intended to assist school districts and county offices of education in complying with the provisions and intent of the CA Ed.G.E. Initiative. Each regulation is designed to guide school districts and county offices of education, or school sites, toward a practice that incorporates parents and stakeholders into the process of establishing language acquisition programs and language programs. The regulations acknowledge that it takes time, research, resources, and deliberate planning to successfully develop and establish an instructional program that leads students toward proficiency and academic achievement in English and an additional language, if so desired.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The CDE reviewed state regulations relating to the CA Ed.G.E. Initiative and has not found regulations that are inconsistent or incompatible with these proposed regulations regarding state or federal law.

DISCLOSURES REGARDING THE PROPOSED ACTION/FISCAL IMPACT

The SBE has made the following initial determinations:

There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulations or class of regulations.

The proposed regulations do not require a report to be made.

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None.

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

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

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

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

Effect on housing costs: None.

Effect on small businesses: The proposed regulations would not have an effect on any small business because the activities specified in the regulations affect only schools districts and county offices of education.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The SBE concludes that it is unlikely that these proposed regulations will: (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.

As stated above under “Anticipated Benefits of the Proposed Regulations,” school districts and county offices of education will have guidance in complying with the provisions of the CA Ed.G.E. Initiative with the implementation of these proposed regulations, leading to student proficiency and academic achievement in English and an additional language, if so desired.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the content of these proposed regulations should be directed to:

Lorrie Kelling, Education Programs Assistant
 English Learner Support Division
 California Department of Education
 1430 N Street, Suite 2204
 Sacramento, CA 95814
 Telephone: 916-319-0386
 E-mail: CA-EDGE@cde.ca.gov

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or the back-up contact person, Hillary Wirick, Regulations Analyst, at 916-319-0860.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The SBE has prepared an Initial Statement of Reasons for the proposed regulation and has available all the information upon which the proposal is based.

**TEXT OF PROPOSED REGULATION AND
CORRESPONDING DOCUMENTS**

Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE Proposed Rulemaking and Regulations Web page at <http://www.cde.ca.gov/re/lr/rr/>.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the Final Statement of Reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

**REASONABLE ACCOMMODATION FOR ANY
INDIVIDUAL WITH A DISABILITY**

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Lorrie Kelling, English Learner Support Division, 1430 N Street, Room 2204, Sacramento, CA, 95814; telephone 916-319-0386, e-mail CA-EDGE@cde.ca.gov. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 5. BOARD OF EDUCATION

**AMENDMENT TO CALIFORNIA CODE OF
REGULATIONS, TITLE 5, REGARDING
INSTRUCTIONAL MATERIALS ADOPTIONS**

NOTICE IS HEREBY GIVEN that the State Board of Education (SBE) proposes to adopt the Title 5 *Cal-*

ifornia Code of Regulations (5 CCR) described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing at 9:00 a.m. on September 11, 2017, at 1430 N Street, Room 1801, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Patricia Alverson, Regulations Coordinator
Administrative Support and Regulations Adoption
Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

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

Comments must be received by the Regulations Coordinator prior to 5:00 p.m. on September 11, 2017. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulation substantially as described in this Notice or may modify the proposed regulation if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposed regulation.

AUTHORITY AND REFERENCE

Authority: Sections 33031 and 60206, *Education Code*.

References: Sections 60200 and 60213, *Education Code*.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking package proposes to amend 5 *CCR* Section 9517.3 to facilitate instructional materials adoptions in accordance with *Education Code (EC)* Section 60213.

The SBE must adopt instructional materials for use in kindergarten through eighth grade. Since 2013, as various *EC* sections have called for publisher participation fees for instructional materials adoptions in specific individual subject areas, 5 *CCR* Section 9517.3 has been amended for each successive adoption, including math in 2014, English language arts/English language development in 2015, and history–social science (HSS) in 2017.

New *EC* Section 60213 establishes that all future instructional materials adoptions must include publisher participation fees and be financially self–supporting. More specifically, *EC* Section 60213 requires the CDE to notify publishers of a pending adoption and provides that publishers choosing to participate will be assessed a fee based upon the number of instructional materials programs the publisher indicates will be submitted for review and the number of grade levels proposed to be covered by each program. In addition, *EC* Section 60213(d) allows the SBE to reduce the fee for defined “small publishers” applying for such a reduction. Pursuant to *EC* Section 60213(e), revenue derived from these fees shall be budgeted as reimbursements for adoption costs.

The proposed amendment of 5 *CCR* Section 9517.3 would establish the details for participation in all future instructional materials adoptions in accordance with *EC* 60213, including the amount of the statutorily–required fee.

Anticipated Benefits of the Proposed Regulation

This proposed amendment will foster clarity and certainty by detailing the requirements of instructional materials adoptions set forth in *EC* Section 60213, including the amount of the fee, for publishers that must decide whether to participate. Without these details, the State cannot conduct instructional materials adoptions as required in the California Constitution, Article 9, Section 7.5, and *EC* sections 60200 and 60213.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The CDE reviewed all related state regulations and found that none exist that are inconsistent or incompatible with the proposed amended regulation.

DISCLOSURES REGARDING THE PROPOSED ACTION/FISCAL IMPACT

The SBE has made the following initial determinations:

There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulations or class of regulations.

The proposed amended regulation does not require a report to be made.

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of division 4 of the Government Code: None.

Other non–discretionary costs or savings imposed on local educational agencies: None.

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

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

Cost impacts on a representative private person or businesses: The SBE is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed amended regulation does, however, specify the amount of the fee required by *EC* Section 60213 for publishers that choose to participate in the adoption process. The fee is intended to offset the cost of conducting adoptions and represents the CDE’s best estimate of such cost.

Effect on housing costs: None.

Effect on small businesses: Publisher participation is voluntary, and any cost/benefit analysis by potential participants will determine outcomes. The regulation specifies details for defined “small publishers” to apply for a reduced fee for their participation.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The SBE concludes that it is unlikely that this proposed amendment will: 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.

Benefits of the Proposed Action: The fiscal impact of the publisher fee on business may be offset by the potential gains; therefore, individual publishers will determine whether or not they wish to participate.

CONSIDERATION OF ALTERNATIVES

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

The SBE 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 content of this proposed regulation should be directed to:

David Almquist, Education Programs Consultant
Curriculum Frameworks and Instructional
Resources Division
California Department of Education
1430 N Street, Room 3207
Sacramento, CA 95814
Telephone: 916-319-0444
E-mail: dalmquis@cde.ca.gov

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or the backup contact person, Hillary Wirick, Regulations Analyst, at 916-319-0860.

INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an Initial Statement of Reasons for the proposed regulation and has available all the information upon which the proposal is based.

TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation, the Initial Statement of Reasons, and all of the information upon which the proposal is based may be obtained upon request from the Regulations Coordinator.

These documents may also be viewed and downloaded from the CDE's Web site at <http://www.cde.ca.gov/re/ir/rr>.

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

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the Final Statement of Reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting David Almquist, Curriculum Frameworks and Instructional Resources Division, California Department of Education, 1430 N Street, Room 3207, Sacramento, CA, 95814 at 916-319-0444. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

General Industry Safety Orders Section 5155

Airborne Contaminants — Benzyl Chloride

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **September 14, 2017** in the **Council Chambers of the Walnut Creek City Hall, 1666 N. Main Street, Walnut Creek, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **July 28, 2017** and closes at 5:00 p.m. on **September 14, 2017**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards.

The proposed regulations implement, interpret, and make specific Labor Code Section 144.6. Labor Code Section 144.6 requires that the Occupational Safety and Health Standards Board (Standards Board), when dealing with standards for toxic materials and harmful physical agents, adopt standards which most adequately assure, to the extent feasible, that no employee suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard for the period of their working lifetime. This section also requires that the Standards Board base standards on research, demonstrations, experiments and other information as may be appropriate. Labor Code Section 144.6 also lists other considerations such as the latest scientific literature, the reasonableness of the standards, and experience gained under this and other health and safety laws.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Section 5155, Airborne Contaminants, establishes minimum requirements for controlling employee exposure to specific airborne contaminants. California periodically amends the airborne contaminants table (Table AC-1) in this standard to keep it consistent with current information regarding harmful effects of exposure to these substances.

The substance benzyl chloride with the amended Permissible Exposure Limit (PEL), in this proposal, was

considered by the Division of Occupational Safety and Health's (Division) Health Expert Advisory Committee (HEAC) in meetings held in March and June 2010. The HEAC considered the health basis of possible changes to the PEL based on a range of scientific information. As in the last round of work on PELs, technical assistance was provided to the Division by the Hazard Evaluation System and Information Service in the California Department of Public Health. In addition, informal public comments were received on the range for possible PELs, including benzyl chloride, recommended by the HEAC, including benzyl chloride, for potential feasibility and cost issues at a meeting of the Division's Feasibility Advisory Committee (FAC) on October 6, 2010. The meetings of both the HEAC and the FAC were open to the public.

The effect of this amendment is to reduce the risk of cancer and material impairment of health or functional capacity of employees exposed to benzyl chloride. Benzyl chloride is used in the manufacture of benzyl compounds, perfumes, pharmaceutical products, dyes, synthetic tannins, artificial resins, photographic developer, gasoline gum inhibitors, penicillin precursors, and quaternary ammonium compounds.

The proposed changes to Section 5155 are considered to be at least as effective as, or more stringent than, the federal OSHA requirements for these substances found at 29 CFR 1910.1000 for Air Contaminants.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

This proposal differs from existing federal standards in that the PEL value proposed for benzyl chloride is lower than that found in the federal air contaminants standard at 29 CFR 1910.1000. Labor Code Section 147.1(c) mandates with respect to occupational health issues not covered by federal standards that the Division maintain surveillance, determine the necessity for standards, and develop and present proposed standards to the Board. For a variety of reasons, the federal standards for air contaminants have remained largely unrevised since their promulgation in the early 1970s, with the exception of substances for which individual comprehensive chemical hazard control standards have been promulgated, primarily for carcinogens. Since the

federal standards were promulgated over 40 years ago, considerable scientific evidence has shown that benzyl chloride has the potential to adversely affect human health. The Division appropriately carried out its mandate under Labor Code Section 147.1 to present to the Board the PEL proposed for benzyl chloride in this rule-making, including a determination of necessity for the proposed amendments. In addition, the Board is carrying out its mandate under Labor Code Section 144.6 to adopt standards dealing with toxic materials which most adequately assure, to the extent feasible, that no employee will suffer material impairment of health or functional capacity, taking into account the latest available scientific data in the field and the reasonableness of the standard.

Anticipated Benefits

Adoption of the proposed change to the PEL for benzyl chloride will result in lowered risk of eye and respiratory tract irritation as well as reduce workers’ potential for the development of cancer as a result of exposure to benzyl chloride for workers in the chemical industry.

The specific changes are as follows:

- Lowers the existing PEL in Section 5155 Table AC-1 for benzyl chloride from an 8-hour TWA of 1 ppm (5 mg/M³) to 0.03 ppm (0.16 mg/M³).

The effect of this revision will be to lower the risk that workers exposed to this chemical will develop lung disease, including cancer and respiratory irritation. These changes will assure, to the extent feasible, that no employee will suffer material impairment of health or functional capacity from exposure to these materials over a working life.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies and School Districts:

None.

Cost or Savings to State Agencies: None.

Cost to any Local Government or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630:

None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

Cost or Savings in Federal Funding to the State:

None.

Cost Impacts on a Representative Private Person Or Business:

The PEL proposed is consistent with recent scientific findings, of which professional health and safety staff and consultants of these employers and others with significantly exposed employees should be aware. Many of these employers already seek to control employee

exposures to chemicals to levels below existing PELs in the interest of business continuity and minimization of tort and workers’ compensation liability. In 1989, Federal OSHA estimated that approximately 11% of employers using the listed chemicals would incur a one-time cost of approximately \$60,000/employer as a result of the revision or addition of PEL’s for 376 chemicals in their 1910.1000, Tables Z-1, Z-2, and Z-3. For these employers that may not be in compliance, and for which there may be a cost impact, the Board believes this cost impact will be nominal (less than \$60,000/affected employer not already in compliance) and offset by savings from health benefits to exposed workers. The Board believes that technological improvements in the efficiency of exhaust ventilation and spread of information in recent years, such as substitution of hazardous substances with less hazardous substances, has made complying with the proposed PEL easier and in many cases far cheaper than in the past.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses To Compete:

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states. The Board anticipates that any potential costs would be balanced by avoiding or minimizing the costs inherent in workers’ compensation claims, lost work time, and productivity losses that would have been caused by cancer-related illness of employees.

Significant Affect on Housing Costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendment may affect small businesses. However, minimal economic impact is anticipated because small businesses will be able to come into compliance through the use of improved administrative procedures such as better maintenance of existing mechanical exhaust ventilation. Small businesses are currently required to provide mechanical exhaust ventilation in order to maintain benzyl chloride levels below the current PELs.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

There will be no significant adverse economic impact on businesses as a result of this proposal, because most affected businesses are already compliant with the proposed new PEL and those affected businesses not in compliance are also not in compliance with the existing PEL either due to poor maintenance of existing exhaust

ventilation equipment or because of failure to install exhaust ventilation required under existing regulations. For those enterprises that may not be in compliance, and for which there may be a cost impact, the Board believes this cost impact will be less than \$60,000/affected employer not already in compliance, and offset by savings from health benefits to exposed workers.

This proposal will neither create nor eliminate jobs within the State of California. This proposal will not create new businesses or eliminate existing businesses within the State of California or lead to the expansion of businesses currently doing business within the State of California.

BENEFITS OF THE PROPOSED ACTION

The Board believes that employees in the chemical industries in California will benefit from improved respiratory health as a result of the adoption of this amended PEL. Employers will benefit from improved work attendance by employees and a lower risk of work related cancer.

The economic benefits from the proposed PEL will result primarily from reduced cancer risk among exposed workers. Under the existing regulation, the cancer risk is estimated at 32 cases per 1000 workers exposed over their working lifetime. The proposed PEL will reduce the cancer risk to 1 case per 1000 workers exposed over their working lifetime. The proposal potentially prevents 31 cancers per 1000 workers for an approximate total of a reduction of 220 cancer cases among the 7,100 exposed workers. Based on the benefit estimates in the federal OSHA final rule, the total benefit for the cancers prevented, although not quantifiable, would far exceed the \$60,000 cost per affected employer estimated for this proposal.

CONSIDERATION OF ALTERNATIVES

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

The Board invites interested persons to present statements or arguments with respect to alternatives to the

proposed regulation at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) and back-up contact person Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons and supporting documents, or other information upon which this rulemaking is based. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its website. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed action and the Initial Statement of Reasons can be accessed through the Standards Board’s website at <http://www.dir.ca.gov/oshsb>.

TITLE 11. DEPARTMENT OF JUSTICE

The Department of Justice (Department or DOJ) proposes to amend section 4002 of Title 11, Division 5, of the California Code of Regulations (CCR) after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department will hold a public hearing to receive public comments on the proposed regulatory action at 1:00 p.m.–3:00 p.m. on September 12, 2017, at the location listed below:

Resources Building Auditorium
1416 9th Street
Sacramento, California 95814

The auditorium is wheelchair accessible.

At the hearing, any person may present oral or written comments regarding the proposed regulatory action. The Department requests, but does not require, that persons making oral comments at the hearing also submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments that are relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on September 12, 2017. Only comments received by that time will be considered. Written comments must be submitted to:

Jeff Amador
Department of Justice
P.O. Box 160487
Sacramento, CA 95816–0487
Email: regulations@doj.ca.gov
Fax: (916) 227–1068

AUTHORITY AND REFERENCE

Authority: Penal Code sections 27560, 27565, 27875, 27920, 27966, 28000, 28230 and 28240.

Reference: Penal Code sections 27560, 27565, 27875, 27920, 27966, 28000, 28230, 28235 and 28240; Civil Code section 1798.17.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Laws and Regulations

California Penal Code (PC) sections 27560, 27565, 27875, 27920, 27966, 28000, 28230 and 28240 authorize the Department to charge fees for processing various firearms reports regarding the acquisition and ownership of firearms. Section 4002 of Title 11, Division 5, Chapter 1, of the California Code of Regulations (CCR) specify the fees and establish the forms for these firearms reports. California Civil Code section 1798.17 requires a privacy notice, regarding the collection and use of personal information, to be provided “. . . on or with any form used to collect personal information from individuals. . . .”

Effect of the Proposed Rulemaking

The proposed rulemaking will amend section 4002 for the sole purpose of updating the revision dates of Bureau of Firearms forms to correspond with the addition of a privacy notice to each form. It should be noted that the information required on each of the forms, as previously established via incorporation by reference, is not being changed by this rulemaking activity.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

Adding a privacy notice to Bureau of Firearms forms that require personal information will make the Department compliant with Civil Code section 1798.17. Moreover, the addition of the privacy notice benefits California residents by providing the following information regarding the collection and use of their personal identification as required pursuant to California Civil Code section 1798.17:

- The name of the agency and the division within the agency requesting the information.
- The title, business address, and telephone number of the agency official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.
- The authority that authorizes the maintenance of the information.

- With respect to each item of information, whether submission of such information is mandatory or voluntary.
- The consequences of not providing all or any part of the requested information.
- The principal purpose or purposes for which the information is to be used.
- Any known or foreseeable disclosures which may be made of the information pursuant to subdivision (e) or (f) of Civil Code section 1798.24.
- The individual's right of access to records containing personal information which are maintained by the agency.

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

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

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

Cost impacts on a representative person or business: None.

Significant statewide adverse economic impact directly affecting businesses and individuals: None.

Business report requirement: None.

Significant effect on housing costs: None.

Other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations: None.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING REGULATIONS

The Department has determined that the proposed amendment is not inconsistent or incompatible with existing regulations. After conducting a review for any existing regulations that would relate to or affect this subject matter, the Department has concluded that these are the only regulations that concern Bureau of Firearms forms to which a privacy notice is being added.

COMPARABLE FEDERAL REGULATIONS

The proposed action does not differ from an existing comparable federal regulation or statute.

FORMS INCORPORATED BY REFERENCE

Collector's In-State Acquisition of Curio or Relic Long Gun Report, BOF 961 (Rev. 07/2017)

Curio or Relic Firearm Report, BOF 4100A (Rev. 07/2017)

Firearm Ownership Record, BOF 4542A (Rev. 07/2017)

New Resident Firearm Ownership Report, BOF 4010A (Rev. 07/2017)

Report of Operation of Law or Intra-Familial Firearm Transaction, BOF 4544A (Rev. 07/2017)

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department concludes it is unlikely the proposed regulations will affect (1) the creation of jobs within the State of California, (2) the elimination of any jobs within the State of California, (3) the creation of new businesses within the State of California, (4) the elimination of existing businesses within the State of California, (5) the expansion of businesses currently doing business within the State of California.

Benefits of the Proposed Regulations

The proposed regulations will benefit the general public by providing notice regarding the collection and use of personal information including an individual's right of access to records maintained by the Bureau of Firearms that contain that individual's personal information.

Small Business Determination

The Department has determined the proposed regulations will not affect small business. This determination is based on the proposed regulations merely adding a privacy notice to Bureau of Firearms forms as required pursuant to California Civil Code section 1798.17. The privacy notice provides information regarding the collection and use of personal identification and does not affect small business.

CONSIDERATION OF ALTERNATIVES

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

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

Any person interested in presenting statements or arguments with respect to alternatives to the proposed regulations may do so at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Jeff Amador
Department of Justice
Bureau of Firearms
P.O. Box 160487
Sacramento, CA 95816-0487
Email: regulations@doj.ca.gov
Telephone: (916) 227-4217

The back up contact person for these inquiries is:

Jacqueline Dosch
Department of Justice
Bureau of Firearms
P.O. Box 160487
Sacramento, CA 95816-0487
Email: regulations@doj.ca.gov
Telephone: (916) 227-5419

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. The text of the proposed regulations (the "express terms"), the initial statement of reasons and the information upon which the proposed rulemaking is based are available on the Department's website at <http://oag.ca.gov/firearms>. Copies may also be obtained by contacting Jeff Amador.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, the Department will make the modified text (with the changes clearly indicated) available to the public for at least 15

days and accept written comments before the Department adopts the regulations. Copies of any modified text will be available on the Department's website at <http://oag.ca.gov/firearms>. A written copy of any modified text may be obtained by contacting Jeff Amador.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, the Final Statement of Reasons will be available on the Department's website at <http://oag.ca.gov/firearms>. You may also obtain a written copy of the Final Statement of Reasons by contacting Jeff Amador.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikethrough format, as well as the Final Statement of Reasons once completed, can be accessed through the Department's website at <http://oag.ca.gov/firearms>.

TITLE 14. DEPARTMENT OF CONSERVATION

GUIDANCE DOCUMENT FOR SURFACE MINE INSPECTORS

DEPARTMENT OF CONSERVATION DIVISION OF MINE RECLAMATION

TITLE 14. NATURAL RESOURCES

Division 2. Department of Conservation

Chapter 8. Mining and Geology

Subchapter. 1. State Mining and Geology Board

Article 1. Surface Mining and Reclamation Practice

Office of Administrative Law Notice File Number: Z2017-0718-03

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), through the Division of Mine Reclamation (DMR) proposes to adopt the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The DMR proposes to adopt §3504.6 of Article 1 of the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1 and adopt a Guidance Document for Surface Mine Inspectors (Guidance Document). This section and document pertain to the DMR’s establishment of a training program for all surface mine inspectors as required by Public Resources Code (PRC) section 2774(e).

WRITTEN COMMENT PERIOD AND PUBLIC HEARING

Any person, or his or her authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the DMR. Comments may be submitted by email to DMR-submittals@conservation.ca.gov, by facsimile (FAX) to (916) 322-4862, or by mail to:

Division of Mine Reclamation
 ATTN: Guidance Document
 801 K Street, MS 09-06
 Sacramento, CA 95814

The written comment period closes at 5:00 p.m. on September 11, 2017. The DMR will only consider comments received at the DMR office by that time.

The DMR will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

AUTHORITY AND REFERENCE

The DMR is proposing to adopt §3504.6 of Article 1, Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR and a Guidance Document for Surface Mine Inspectors to support an inspector training program, pursuant to the authority granted in the Surface Mining and Reclamation Act (SMARA, Public Resources Code (PRC) § 2710 et seq., specifically PRC §2774(e); Reference PRC §§ 2772(c)-(d), 2772.1(b)(7)(B), 2773, 2773.1, 2773.4, 2774(b), 2774(e)).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Assembly Bill 1142 (Gray, Chapter 7, Statutes of 2016) (AB 1142), signed by Governor Brown on April 18, 2016, requires the Department to establish a training program for all surface mine inspectors that includes a guidance document providing instructions and recommendations to surface mine inspectors.

Proposed Regulation and Guidance Document

The purpose of CCR section 3504.6 is to establish that the Guidance Document for Surface Mine Inspectors shall function as the basis for the DMR’s inspector training program and will provide the instructions and recommendations to surface mine inspectors. This is necessary to meet the statutory requirements of PRC section 2774(e) (AB 1142), which requires the Department to develop the Guidance Document and an Inspector Training Program (ITP) by December 31, 2017.

Guidance Document for Surface Mine Inspectors, Incorporated by Reference

“Guidance Document for Surface Mine Inspectors,” December 2017, incorporated by reference.

The Guidance Document is intended to provide instructions and recommendations to inspectors performing inspections pursuant to PRC section 2774(b). The ITP will include inspection workshops, offered by DMR in different regions of the state, where practical application of the Guidance Document’s material will be presented. Mine inspections must be conducted by an inspector who has on file with the Lead Agency and the Department, a certificate of completion of an inspection workshop on or after July 1, 2020.

The Guidance Document addresses:

- The types of professionals authorized to conduct an inspection, and who must attend the ITP.
- Lead Agency responsibilities when conducting an inspection.
- Recommendations for scheduling an inspection.
- Legislative intent related to the overall goals and objectives of SMARA when conducting an inspection.
- The extensive preparation that must be completed prior to an inspection, including the review of the mine’s administrative record. This record includes the approved reclamation plan, reference maps, annual reports, financial assurances, previous inspection reports and any pending enforcement actions and associated notices of violations or orders to comply.
- Recommendations for inspectors conducting an inspection, including what to bring to the inspection and what to observe and document during the inspection.
- Recommendations and requirements following the inspection.
- Filing of the Inspection Report and Notice of Completion of Inspection after the inspection has been completed.
- A summary of the requirements for inspectors to participate in the ITP.

Anticipated Benefits of the Proposed Regulation and Guidance Document

Under SMARA, Lead Agencies are required to conduct regular inspections of all surface mining operations within their jurisdiction, and 90 days after the inspection, send a completed inspection form and notice of inspection to the Department. However, prior to AB 1142, there was no formal mine inspection training program. The DMR had conducted informal inspection training workshops to assist Lead Agencies and their inspectors, but these workshops were only offered as a courtesy and were not required by statute. The implementation of a standardized, statewide training program, which includes the Guidance Document for Surface Mine Inspectors, will ensure that Lead Agencies consistently review the physical and administrative conditions of surface mining operations (SMOs) and determine the SMO's compliance with SMARA. The Guidance Document provides instructions and recommendations for inspectors to follow before, during, and after the conduct of all inspections. This includes review and confirmation of: compliance with the approved reclamation plan; compliance with pending orders to comply, if any; compliance with minimum acceptable surface mining practices for soil erosion control, water quality and watershed control, protection of fish and wildlife habitat, disposal of mine waste rock and overburden, erosion and drainage, and resoiling and revegetation when called for; assessing the reported status of SMO and reclamation; assessing the status of financial assurance cost estimates; and, assessing other conditions, if any, that preclude the SMO from achieving reclamation in accordance with the approved reclamation plan. A standardized, statewide training program should also result in a more consistent and uniform approach to the conduct of mine inspections and provide confidence to the public that surface mining operations are being properly inspected on a regular basis. A formalized Guidance Document will serve as an ongoing reference tool following attendance of required training workshops that mine inspectors can rely upon for all inspections. Better trained mine inspectors should result in an increased level of compliance with SMARA, resulting in better protection of the public's health and safety as well as minimizing or avoiding the adverse environmental effects of mining.

CONSISTENCY WITH FEDERAL STATUTE AND REGULATION

This regulation does not duplicate or conflict with existing federal statutes or regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the De-

partment of Conservation, and the State Mining and Geology Board (SMGB), SMARA and federal law are coordinated to eliminate duplication.

CONSISTENCY WITH EXISTING STATE REGULATIONS

After evaluating regulations under SMARA, the Department has found that CCR §§ 3503 and 3504.5 deal directly with the inspection of a surface mining operation. Amendments to PRC § 2774(b), under AB 1142, which relate to the inspection of a surface mining operation, affect CCR §3504.5, has caused the SMGB to initiate regular rulemaking with the Office of Administrative Law on April 28, 2017, to clarify and make consistent CCR § 3504.5 with PRC § 2774(b). After evaluating the SMGB's proposed amendments to CCR §3504.5, the Department has determined the proposed CCR § 3504.6 is consistent and compatible with existing and proposed regulations by the SMGB.

The Department has also determined that state regulations under Business and Professions Code and Public Resources Code govern the conduct of persons who may be performing inspections. After evaluation of the Guidance Document, the Department has determined the proposed CCR § 3504.6 is consistent and compatible with existing state regulations under Business and Professions Code and Public Resources Code.

The proposed regulatory change is not inconsistent or incompatible with existing state regulations.

CEQA COMPLIANCE

The DMR has determined that this rulemaking action is not a project as defined in Title 14, CCR, §15378, and that this activity is not subject to the requirements of the California Environmental Quality Act (CEQA).

DISCLOSURES REGARDING THE PROPOSED ACTION

The DMR has made the following initial determinations:

Mandate on local agencies and school districts: None. The mandate for local government staff to attend ITP was established by AB 1142, not by this proposed regulation.

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 nondiscretionary cost or savings imposed on local agencies: None.

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

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

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

Significant effect on housing costs: None.

Small business determination: The proposed regulatory language incorporates by reference the Guidance Document for Surface Mine Inspectors as the documents required for the DMR's ITP. Surface mining operations are statutorily required to be inspected on an annual basis, and the proposed regulatory language and Guidance Document do not establish additional requirements for inspections. Thus, the DMR has determined the proposed regulatory language will not affect small business.

Business reporting requirement: Surface mine inspections are statutorily required to be conducted annually, and the findings of those inspections are provided to the Lead Agency, the mine operator, and the DMR by way of inspection reports. The proposed regulatory language and the Guidance Document do not establish additional requirements for inspections. Thus, the DMR has determined the proposed regulatory language may not affect business reporting requirements.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Creation or elimination of jobs within California: The DMR does not anticipate the proposed amended regulations would create or eliminate jobs within California.

Creation of new businesses or the elimination of existing businesses within California: The DMR does not anticipate the proposed amended regulations would create new businesses or eliminate existing businesses.

Expansion of businesses currently doing business within California: The DMR does not anticipate the proposed amended regulations would lead to the expansion of businesses currently doing business within California.

Benefits to the health and welfare of California residents, worker safety, and the state's environment: Annual inspections are statutorily required and intended to ensure that mined lands are continually on the correct path to be reclaimed to a usable condition that is readily adaptable for alternative land uses. The ITP and Guidance Document will encourage consistent application of SMARA through trained inspectors.

CONSIDERATION OF ALTERNATIVES

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

The DMR invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at any hearing scheduled to take statements or arguments that are relevant to the proposed action.

CONTACT PERSONS

Inquiries concerning the substance of the proposed amended regulation should be directed to:

Paul Fry, Senior Geologist
 Division of Mine Reclamation
 801 K Street, MS 09-06
 Sacramento, CA 95814
 Phone: (916) 324-0681
 Fax: (916) 322-4862
Paul.Fry@conservation.ca.gov

OR

Ian Stevenson, Senior Geologist
 Division of Mine Reclamation
 801 K Street, MS 09-06
 Sacramento, CA 95814
 Phone: (916) 323-5435
 Fax: (916) 322-4862
Ian.Stevenson@conservation.ca.gov

Please direct requests for copies of the proposed text (the "express terms") of this regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which this rulemaking is based to Paul Fry at the above address.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND RULEMAKING FILE

The DMR will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office 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, the initial statement of reasons, and a standard form 399.

Copies of these documents may be obtained by contacting Paul Fry at the address and phone number listed above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After the written comment period and any hearing that may be conducted by the DMR to accept comments and evidence regarding the adoption of the proposed regulation, the DMR will consider all timely and relevant comments received. Thereafter, the DMR may adopt the proposed regulation substantially as described in this notice. If the DMR makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the DMR adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Paul Fry at the address indicated above. The DMR will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT
OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Paul Fry at the above address.

AVAILABILITY OF DOCUMENTS ON
THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the proposed amended text of the regulation can be accessed through our webpage at:
<http://www.conservation.ca.gov/dmr>

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

Title 14: Natural Resources
**Division 7: Department of Resources Recycling
and Recovery**
**Chapter 3: Minimum Standards for Solid Waste
Handling and Disposal**
**Article 6.0: Transfer/Processing Operations and
Facilities Regulatory Requirements**
Article 6.2: Operating Standards
**Chapter 5: Enforcement of Solid Waste Standards
and Administration of Solid Waste Facility
Permits; Loan Guarantees.**
Article 3.0: Regulatory Tier Requirements

PROPOSED REGULATORY ACTION

The Department of Resources Recycling and Recovery (Department or Cal Recycle) proposes to amend California Code of Regulations, Title 14, Division 7, Chapter 3, Articles 6.0, 6.2, and Chapter 5, Article 3.0. The central purpose of the proposed regulations is to protect public health, safety, and the environment by effectively regulating solid waste facilities that handle secondary recyclable materials while avoiding significant operational interruptions due to the unanticipated application of solid waste permitting requirements.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulation to the Department. **The written comment period for this rulemaking closes at 5:00 p.m. on September 11, 2017.** The Department will also accept written comments during the public hearing described below. Please submit your written comments to:

Martin Perez, MS 10A-15
Waste Permitting, Compliance and Mitigation
Division
California Department of Resources Recycling and
Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
FAX: (916) 319-7244
E-mail:
transfer.processing.regs@calrecycle.ca.gov

PUBLIC HEARING

A public hearing to receive public comments is scheduled for September 12, 2017. The hearing will be held at:

Joe Serna Jr., Cal EPA Building
 Training 1 East/West
 1001 I Street, 1st Floor
 Sacramento, CA 95814

The hearing will begin at **1:00 p.m. on September 12, 2017**, and will conclude after all testimony is given. The Department requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheel chair accessible. If you have any questions, please contact transfer.processing.regs@calrecycle.ca.gov.

AUTHORITY AND REFERENCES

Public Resources Code Sections 40502, 43020, and 43021 provide authority for this regulation. The following is a list of references cited in this proposed regulation: Public Resources Code: 40053, 43020, and 43021.

INFORMATIVE DIGEST

Under existing law, the Department regulates solid waste Transfer and Processing Facilities and Operations through Title 14, Division 7 of the California Code of Regulations (“CCR”) pursuant to rulemaking authority granted by Public Resources Code Sections 40502, 43020 and 43021. The Department is proposing to amend these current regulations to define two new types of transfer and processing facilities and operations called “Secondary Material Processing Facilities” and “Secondary Material Processing Operations” and place these within the Department’s Permitting Tiers in Title 14, Division 7 of the CCR.

The broad objective of the proposed regulations is to create an efficient permitting pathway for certain types of transfer and processing facilities that are receiving a significant amount of incidental solid waste mixed in with source-separated feedstock such as glass, plastic, paper and cardboard destined for recycling. Absent these proposed regulations, applicable facilities would be subject to enforcement action and shutdowns pending a lengthy permitting process. The proposed regulations would put these facilities in permitting tiers with a shortened processing timeline while still ensuring they are subject to appropriate approvals to operate, state minimum standards, and inspections to protect public health and safety and the environment.

These proposed regulations are consistent and compatible with the Department’s existing permitting tier regulations, as they would place these activities within the appropriate level of oversight for the type of activity involved.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

POLICY STATEMENT OVERVIEW

The Department is responsible for implementing the California Integrated Waste Management Act of 1989 (Act) commencing with section 40000 of the Public Resources Code (PRC), as amended.

Certain types of solid waste facilities are exempt from the requirement to obtain a solid waste facility permit, but only if they meet certain defined requirements. PRC section 40200(b)(2) provides that a facility, whose principal function is to receive, store, convert, or otherwise process wastes that have already been separated for reuse and are not intended for disposal, is not a solid waste operation or facility and consequently is not subject to the Department’s current regulatory requirements.

The Department has promulgated regulations to specify how the exception in section 40200(b)(2) is implemented in California Code of Regulations (CCR), Title 14, section 17402.5(c). That regulation established what is commonly known as the “three-part-test” for determining whether a particular operation falls within the exception. This was necessary because there were many operations that claimed to be handling only recyclable material, but were, in fact, handling a significant amount of residual waste that they did not fit the exception. The three-part-test set specific thresholds to distinguish between recycling centers and solid waste activities. Other Department regulations set forth regulatory tiers for different types of solid waste activities specifying whether a full permit or a lesser permitting document is required to operate and specifying the applicable minimum standards.

These proposed regulations are being submitted pursuant to Government Code Sections 11346.2 to 11347.3 to set forth minimum operating standards for Secondary Material Processing Facilities and Operations and place them within the Enforcement Agency Notification Tier and Registration Permit Tier (less than a full permit). Recent information received by the Department has indicated that “secondary material processors” may be receiving enough solid waste mixed in with the material they are receiving that they may be exceeding the parameters of the three-part test. This would subject these

facilities to permitting requirements as solid waste transfer/processing facilities. They would be operating without a solid waste facility permit. Pursuant to PRC section 44002(6), these facilities would be subject to mandatory enforcement action whereby enforcement agencies would be required to issue cease and desist orders requiring an immediate shut down pending the issuance of a permit. Without these regulations, these facilities would be required to obtain a “full” solid waste facility permit with a lengthy processing timeline during which the facility would be unable to operate and at risk of going out of business. This poses a threat to the ongoing viability of businesses processing several of the major recycling streams in California. These proposed regulations create an efficient permitting path to avoid crippling shutdowns if their operations cross over from recycling centers under the three-part test to solid waste facilities requiring a permit while also ensuring the facilities are subject to appropriate regulation and oversight.

CONSISTENCY WITH STATE REGULATIONS

After conducting an evaluation for any regulations that would relate to or affect this area, CalRecycle has found that these are the only regulations concerning secondary material processors. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

PLAIN ENGLISH REQUIREMENTS

Department staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulations are considered non-technical and are written to be easily understood by those parties that will use them.

MANDATE ON LOCAL AGENCIES, COST OR SAVINGS TO LOCAL AGENCIES/SCHOOL DISTRICTS, STATE AGENCIES, AND FEDERAL FUNDING

Department staff has determined that the proposed regulation does not impose: 1) a mandate on local agencies or school districts; 2) costs to any local agency or school district that must be reimbursed in accordance with Government Code §§17500 through 17630; 3) other non-discretionary costs or savings on local agencies; or 4) costs or savings in federal funding to the state.

Some local agencies will incur costs associated with these regulations but these agencies will be fully financed from fees and other charges authorized by Public Resources Code sections 43213 and 44006.

The Department would have an additional expenditure of approximately \$2,167.50 in the current state fiscal year (SFY), \$2,125.00 in SFY 2018–19, and \$2,125.00 in SFY 2019–20.

FINDINGS ON NECESSITY OF REPORTS

The Department has found that the requirements for specific reports are necessary for the health, safety, or welfare of the people of the state because it will help to ensure that the requirements of these regulations are met and adequately monitored.

Effect on Businesses

Department staff made an initial determination that although the proposed regulation would affect approximately 6 businesses in California that receive recyclable material removed from the solid waste stream for further processing, it would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Effect on Small Businesses

Department staff made an initial determination that the proposed regulations will not affect small businesses in California. The regulations would not have a significant, state adverse economic impact directly affecting small business, including the ability of California small businesses to compete with small businesses in other states. The regulations simply add two additional regulatory placement tiers in the existing permitting structure so that the level of oversight is more appropriate.

STATEMENT OF THE RESULTS OF ECONOMIC IMPACT ANALYSIS

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

The Department has made an evaluation that the proposed regulations would not affect the creation or elimination of jobs or businesses, nor the expansion of existing businesses, within California. The types of businesses that would be affected will be subject to the Transfer/Processing Operations and Facilities Regulatory Requirements (California Code of Regulations, Title 14, Division 7, Chapter 3, Articles 6.0 – 6.35). The impact of these regulations is not sufficient to create or eliminate businesses. The regulations simply add two

additional regulatory placement tiers in the existing permitting structure so that the level of oversight is more appropriate.

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

The proposed regulations will result in benefits such as protection of public health and safety, worker safety, environmental safety, and transparency in businesses and government. Specifically, the benefits are as follows:

- Protect public health and safety and the environment by ensuring that solid waste is being handled and processed in compliance with transfer/processing state minimum standards as defined in Title 14, California Code of Regulations, Articles 6.0, 6.1, 6.2, 6.3, and 6.35 (facilities only);

- Reduce the possibility of businesses closing because of noncompliance with solid waste handling requirements;
- Increase regulatory compliance through easier to understand requirements;
- Reduce unsafe handling and disposal of household hazardous waste mixed with recyclable materials.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Department estimates the economic impact of this regulation (including the fiscal impact) is less than \$10 million.

Total Summary of Costs to Operators and Local and State Government Agencies (Based on estimates from Appendix B of the Economic and Fiscal Impact Statement)

	Total Costs
Operators - 6 total (See Appendix B, Subtotal costs A + E)	2016-2017: \$0* 2017-2018: \$352,141.45 2018-2019: \$144,867.40 2019-2020: \$144,867.40
State and local government agencies (See Appendix B, Subtotal costs B + C + D + F +G)	2016-2017: \$0* 2017-2018: \$13,132.50 2018-2019: \$8,585.00 2019-2020: \$8,075.00
Total	2016-2017: \$0* 2017-2018: \$365,273.95 2018-2019: \$153,452.40 2019-2020: \$152,942.40

*The activities currently operating in the Enforcement Agency notification tier due to implementation of the emergency regulations would not incur additional costs.

EFFECT ON HOUSING COSTS

Department staff made a determination that the proposed regulation will not have a significant effect on housing costs.

...tive in implementing the statutory policy or other provision of law.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

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

Martin Perez, MS 10A-15
 Waste Permitting, Compliance and Mitigation
 Division
 California Department of Resources Recycling and
 Recovery
 P.O. Box 4025
 Sacramento, CA 95812-4025
 Phone: (916) 323-0834
 E-mail:
transfer.processing.regs@calrecycle.ca.gov

Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Diane Vlach, MS 10A-15
Waste Permitting, Compliance and Mitigation
Division
California Department of Resources Recycling and
Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
Phone: (916) 341-6393
E-mail:
transfer.processing.regs@calrecycle.ca.gov

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department may adopt the proposed regulation substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the Department adopts the regulation as revised. Requests for the modified text should be made to the contact person named above. The Department will transmit any modified text to all persons who testify at the public hearing; all persons who submit written comments at the public hearing; and all persons whose comments are received during the comment period, and all persons who request notification of the availability of such changes. The Department will accept written comments on the modified regulation for 15 days after the date on which they are made available.

AVAILABILITY OF INITIAL AND FINAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND RULEMAKING RECORD

The Department will have the entire rulemaking file, and all information that provides the basis for the proposed regulation, available for inspection and copying throughout the rulemaking process 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 may be obtained by contacting Martin Perez at the address or e-mail address listed above. For more timely access to the proposed text of the regulation, and in the interest of waste prevention, interested parties are

encouraged to access the Department's Internet web-page at:

<http://www.calrecycle.ca.gov/Laws/Rulemaking/MtrlProcess/default.htm>.

Additionally, the Final Statement of Reasons will be made available once it has been prepared. You may contact the person listed above.

TITLE 14. SIERRA NEVADA CONSERVANCY

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE SIERRA NEVADA CONSERVANCY

NOTICE IS HEREBY GIVEN that the SIERRA NEVADA CONSERVANCY, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on July 28, 2017 and closing on September 11, 2017. All inquiries should be directed to the contact listed below.

The SIERRA NEVADA CONSERVANCY 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. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include: The amendments change the designation of employees to list current position titles for staff required to file statements of economic interest, consistent with the Conservancy's current organizational structure, revises the disclosure categories to reflect the Conservancy's grant activities, and also makes other technical changes.

The proposed amendment and explanation of the reasons can be obtained from the agency's contact, Amy Lussier, Chief, Administrative Services Division.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than September 11, 2017, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than August 28, 2017.

The SIERRA NEVADA CONSERVANCY 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.

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

Amy Lussier, Chief
 Administrative Services Division
 Telephone: (530) 823-4707
 Toll Free: (877) 257-1212
 Fax: (530) 823-4676
 amy.lussier@sierranevada.ca.gov

GENERAL PUBLIC INTEREST

DEPARTMENT OF JUSTICE

NOTICE OF RESCHEDULED PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD

Notice is hereby given that the Department of Justice (Department) has rescheduled the public hearing regarding ammunition vendor licensing from the originally noticed date and time of August 28, 2017 at 10:00 a.m.

Oral comments on the proposed action will be taken at a public hearing from 10:00 a.m.–12:00 noon on September 12, 2017, at the following location:

Resources Building Auditorium
 1416 9th Street
 Sacramento, California 95814

The auditorium is wheelchair accessible.

At the hearing, any person may present oral or written comments regarding the proposed regulatory action. The Department requests, but does not require, that persons making oral comments at the hearing also submit a written copy of their testimony.

Please direct inquiries concerning the hearing to:

Jeff Amador
 Department of Justice
 P.O. Box 160487
 Sacramento, CA 95816-0487
 Email: regulations@doj.ca.gov
 Fax: (916) 227-1068

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period has been extended and will now close at 5:00 p.m. on September 12, 2017. Only comments received by that time will be considered.

RULEMAKING PETITION DECISION

DIVISION OF WORKERS' COMPENSATION

STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS

NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS (Government Code section 11340.7)

TITLE 8, CALIFORNIA CODE OF REGULATIONS, SECTION 9781, ARTICLE 8 OF CHAPTER 4.5, SUBCHAPTER 1.5

PETITIONER: Christel Schoenfelder

By letter dated June 13, 2017, Christel Schoenfelder (Petitioner) petitioned the Division of Workers' Compensation (DWC) in accordance with Government Code section 11340.6. The Petitioner requests that DWC amend the California Code of Regulations, Title 8 (8 CCR), section 9781(a) by adding the phrase underlined below:

"This section shall not apply to self-insured and insured employers who offer a Medical Provider Network pursuant to section 4616 of the Labor Code, except that subsection (d) below shall apply to all self-insured and insured employers without exception."

Petitioner's amendment would expand a claims administrator's obligations by requiring compliance with section 9781(d) even if the employer has tendered a one-time change pursuant to Labor Code 4601(a) or if the employer or the employer's insurer has established and contracted with a medical provider network (MPN) pursuant to Labor Code section 4616 *et seq.*

AUTHORITY

Labor Code section 4600(c) states, “Unless the employer or the employer’s insurer has established or contracted with a medical provider network as provided for in Section 4616, after 30 days from the date the injury is reported, the employee may be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area.”

Labor Code section 4601(a) states, “If the employee so requests, the employer shall tender the employee one change of physician. The employee at any time may request that the employer tender this one-time change of physician.” Labor Code section 4601 subdivisions (b) and (c) refer to the situation where an employee requesting a change of physician pursuant to subdivision (a), has notified his or her employer in writing prior to the date of injury that he or she has either a personal chiropractor or personal acupuncturist. In that instance the alternative physician tendered by the employer to the employee shall be that personal chiropractor or personal acupuncturist.

The courts have consistently interpreted Labor Code section 4600(c) to apply when an injured employee has elected to select his or her own physician, while the courts have interpreted Labor Code section 4601 to apply when an employer retains control over medical treatment and provides or tenders a physician to treat the injured employee. (*Ralphs Grocery Co. v. Workers’ Compensation Appeals Bd.* (1995) 38 Cal. App. 4th 820, 45 Cal. Rptr. 2d 197.)

CONTACT PERSON

Please direct any inquiries regarding this action to John Cortes, Industrial Relations Counsel, Division of Workers’ Compensation, Legal Unit, P.O. Box 420603, San Francisco, CA 94142-0603.

AVAILABILITY OF PETITION

The petition to amend regulation 8 C.C.R. § 9781(a) is available upon request directed to DWC’s contact person.

SUMMARY OF THE PETITION

Petitioner proposes the following amendment, underlined below, to the California Code of Regulations, title 8, section 9781(a):

“This section shall not apply to self-insured and insured employers who offer a Medical Provider Network pursuant to section 4616 of the Labor Code, except that

subsection (d) below shall apply to all self-insured and insured employers without exception.”

Petitioner states that the requirements expressed in Section 9781(d) should apply to all employers, even to those who are tendering a one-time change of physician pursuant to Labor Code section 4601(a) and to employers who have established or contracted with an MPN. Petitioner suggests that once an injured employee decides to change treating physicians and notifies the claims administrator of the name and address of the new physician or facility, the claims administrator shall then be required to:

- “(1) authorize such physician or facility or personal chiropractor or acupuncturist to provide all medical treatment reasonably required pursuant to section 4600 of the Labor Code;
- (2) furnish the name and address of the person to whom billing for treatment should be sent;
- (3) arrange for the delivery to the selected physician or facility of all medical information relating to the claim, all X-rays and the results of all laboratory studies done in relation to the injured employee’s treatment; and
- (4) provide the physician with (1) the fax number, if available, to be used to request authorization of treatment plans; (2) the complete requirements of section 9785; and (3) the forms set forth in sections 9785.2 and 9785.4. In lieu of providing the materials required in paragraphs (2) and (3) immediately above, the claims administrator may refer the physician or facility to the Division of Workers’ Compensation’s website where the applicable information and forms can be found at http://www.dir.ca.gov/DWC/dwc_home_page.htm.”

Petitioner contends that making this amendment would facilitate prompt treatment because the new physician would have the full medical records at the onset of assuming responsibility of care. This would maximize the new treating physician’s ability to understand the history of the case and help make informed treatment decisions. In addition, it would help reduce costs because physicians will avoid making duplicative requests for procedures or diagnostic studies already completed. Finally, Petitioner contends that claims administrators are not required to send the medical file or any information about billing to the new physician selected by the employer even though that physician is in the employer’s or employers insurer’s MPN.

DEPARTMENT DECISION

DWC denies the petition.

The important distinction between an employer-selected physician versus an employee-selected physi-

cian is clearly made by the statutes governing the rights of an employee to change treating physicians and, as currently written, Section 9781 is consistent with these statutory distinctions. However, Petitioner’s proposed amendment to Section 9781 blurs this important statutory distinction.

Section 9781(d) only applies if the claims administrator is notified of a change of physician pursuant to Labor Code section 4600(c) or Labor Code section 4601, subdivisions (b) or (c). In each of these cases, the employee has elected to select his or her own physician. The claims administrator’s obligation to provide the information listed in Section 9781(d) is necessary because it is unlikely that an employee–selected physician will have this important information.

However, Section 9781(d) does not apply to a change of physician pursuant to Labor Code section 4601(a) nor to employees who are in an MPN pursuant to Labor Code section 4616. In each of these cases, the employer retains control either by tendering a one–time change and selecting the physician who will treat the injured employee or by selecting the pool of physicians in the MPN from which the injured employee must choose. Since the lines of communication are already established between the physician and claims administrator and/or contractual relationships are already in place between the physician and MPN, automatically requiring the claims administrator to provide all the information listed in Section 9781(d) is unnecessary. For example, if an injured employee has a complex medical condition involving multiple injuries to various body parts, a subsequent secondary treating physician treating one of the multiple conditions or body parts may not need the complete medical file. The information exchanged can be narrowed by a simple phone call. The physician can tell the claims administrator what information he or she needs to appropriately treat the injured employee.

Administrative regulations may not alter or amend a statute or enlarge its scope. California Government Code section 11342.2 provides that “no regulation adopted is valid or effective unless consistent and not in conflict with the statute. . . .” Petitioner’s proposed amendment disregards the important statutory distinction between an employer–selected physician versus an employee–selected physician. Labor Code section 4600(c) applies when an employee has elected to select his or her own physician and specifically precludes employees in an MPN. Labor Code section 4601(a) applies when the employer retains control over medical treatment and provides a physician to treat the injured employee. Petitioner’s amendment disregards this statutory distinction by proposing Section 9781(d) “shall apply to all self–insured and insured employers without exception.” Accordingly, the DWC denies this petition

because it has no authority to enlarge the scope of the statutes.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

File# 2017–0602–02
 AIR RESOURCES BOARD
 Oil and Gas Regulation 2016

This rulemaking by the Air Resources Board adopts 13 sections and three appendices in title 17 of the California Code of Regulations. The adopted regulations cover greenhouse gas emissions — primarily methane — from production, gatherings and boosting stations, and processing, as well as natural gas storage and transmission compressor stations. Additionally, these regulations also address both vented (intentional) and fugitive (unintentional) releases of greenhouse gases by processes at facilities in the following sectors: onshore and offshore crude oil or natural gas production; crude oil, condensate and produced water separation and storage; natural gas gathering and boosting stations; natural gas processing plants; natural gas transmission compressor stations; and natural gas underground storage. These regulations also establish emission standards for active and idle equipment and components at the listed facilities. Depending on the equipment or component, control mechanisms include vapor recovery, leak detection and repair, and equipment replacement. Lastly, these regulations include monitoring at underground natural gas storage facilities for the early detection of large leaks or well failures.

Title 17
 ADOPT: 95665, 95666, 95667, 95668, 95669, 95670, 95671, 95672, 95673, 95674, 95675, 95676, 95677
 Filed 07/17/2017
 Effective 10/01/2017
 Agency Contact: Trini Balcazar (916) 445–9564

File# 2017-0711-03
BOARD OF EDUCATION
California Assessment of Student Performance and Progress

In this emergency re-adopt, the Board amends various sections in Title 5 of the California Code of Regulations. The amendments modify regulations governing the California Assessment of Student Performance and Progress (CAASPP) examination to align state standards with standardized testing guidelines of the Smarter Balanced Assessment Consortium.

Title 5
AMEND: 851, 853.5, 853.7, 855, 856
Filed 07/18/2017
Effective 08/01/2017
Agency Contact: Patricia Alverson (916) 319-0642

File# 2017-0531-03
CALIFORNIA COASTAL COMMISSION
Permit Application Fee, Annual Increase

The California Coastal Commission submitted this action amending section 13055 of Title 14, to adjust the fees for permit applications and other filings as prescribed in section 13055(c). The Consumer Price Index for Urban Consumers base year for calculations is 2008. For the 2017-2018 fiscal year increase, the change is 16.7%, as determined by the State of California, Office of the Director — Research Unit, Consumer Price Index Calculator.

Title 14
AMEND: 13055
Filed 07/13/2017
Agency Contact: Robin Mayer (415) 904-5220

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# 2017-0627-03
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Basic Course Waiver and Requalification Requirements

In this rulemaking action, the Commission on Peace Officer Standards and Training (POST) amends section 1008 of Title 11 of the California Code of Regulations concerning exemption from the requalification requirement for individuals returning to law enforcement after a three-year-or-longer break in service. The amendments repeal a grandfathering provision adopted in 1996 which is no longer necessary and clarify that a prospective hiring agency seeking an exemption for an individual must submit the exemption request to the POST Executive Director.

Title 11
AMEND: 1008
Filed 07/18/2017
Effective 10/01/2017
Agency Contact: Christy Correa (916) 227-4847

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# 2017-0629-02
DEPARTMENT OF CORRECTIONS AND REHABILITATION
Health Care Grievances

This emergency action, submitted as operationally necessary pursuant to Penal Code section 5058.3, adopts several sections in Title 15 of the California

Code of Regulations to implement a statewide Health Care Grievance Program and adopts two forms — CDCR 602 HC (6/17) and CDCR 602 HC A (6/17) — that are incorporated by reference.

Title 15

ADOPT: 3087, 3087.1, 3087.2, 3087.3, 3087.4, 3087.5, 3087.6, 3087.7, 3087.8, 3087.9, 3087.10, 3087.11, 3087.12

Filed 07/18/2017

Effective 09/01/2017

Agency Contact: Lara Saich (916) 691-3704

File# 2017-0711-02

DEPARTMENT OF FOOD AND AGRICULTURE

Asian Citrus Psyllid Interior Quarantine

This emergency action by the Department of Food and Agriculture expands the quarantine area for the Asian Citrus Psyllid (“ACP”) *Diaphorina citri* by approximately 13 square miles in the Spreckles area of Monterey County in response to the identification of one adult ACP on June 15, 2017. This emergency action provides authority for the state to perform quarantine activities against ACP within these areas.

Title 3

AMEND: 3435(b)

Filed 07/17/2017

Effective 07/17/2017

Agency Contact: Sara Khalid (916) 403-6625

File# 2017-0601-01

DEPARTMENT OF HEALTH CARE SERVICES

Licensed Midwife

In this action without regulatory effect, the Department of Health Care Services amends two sections of Title 22 of the California Code of Regulations concerning licensed midwives so as to conform these regulations to changes made to governing Business and Profession Code statutes by Assembly Bill 1308, Chapter 665, Statutes of 2013.

Title 22

AMEND: 51255, 51356

Filed 07/14/2017

Agency Contact: Greg Rodriguez (916) 440-7766

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# 2017-0710-02

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

AB 587 — Fee Tax Waiver Program

This emergency action readopts a waiver program for manufactured and mobile home owners who have not registered their homes with the Department of Housing and Community Development (HCD), as required by law, due to accumulated and unpaid fees, taxes, and penalties. By statute, HCD and local tax assessors waive/abate amounts due under the program.

Title 25

ADOPT: 5535, 5535.5, 5536, 5536.5

Filed 07/18/2017

Effective 07/25/2017

Agency Contact: Ruth Ibarra (916) 263-3262

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# 2017-0710-01

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

Secondary Material Processing Facilities and Operations

The Department of Resources, Recycling and Recovery is readopting for the second time the emergency

rulemaking (2016–0926–01E, 2017–0322–02EE) that adopted one section and amended three sections in title 14 of the California Code of Regulations. This emergency readopt will continue to allow glass processors to receive a streamlined permit instead of a full solid waste facility permit for their facilities. Currently, glass processors in California are receiving enough waste mixed in with the glass they receive to require a full solid waste facility permit.

Title 14
 ADOPT: 17403.3.1 AMEND: 17402, 17403.0, 17405.0
 Filed 07/18/2017
 Effective 07/18/2017
 Agency Contact: Harlee Branch (916) 341–6056

File# 2017–0602–01
 DEPARTMENT OF SOCIAL SERVICES
 Transitional Care Prior to Placement

In this resubmitted rulemaking action, the Department adopts section 31–137 in its Manual of Policies and Procedures to define the time period in which a child is in transitional care, establish standards of care and safety for children who are in transitional care, and address the responsibilities of the Children and Family Services Division of the California Department of Social Services.

Title MPP
 ADOPT: 31–137
 Filed 07/17/2017
 Effective 10/01/2017
 Agency Contact: Oliver Chu (916) 657–3588

File# 2017–0612–01
 DIVISION OF WORKERS’ COMPENSATION
 Workers’ Compensation—Official Medical Fee Schedule—Physician

This action by the Division of Workers’ Compensation of the Department of Industrial Relations was submitted to the Office of Administrative Law for filing and printing pursuant to Labor Code section 5307.1, subdivision (g)(2). The action adopts section 9789.17.3 and amends sections 9789.12.2, 9789.17.1, 9789.18.12, and 9789.19 of title 8 of the California Code of Regulations to conform title 8 to relevant changes in the Medicare and Medi-Cal payment systems.

Title 8
 ADOPT: 9789.17.3 AMEND: 9789.12.2, 9789.17.1, 9789.18.12, 9789.19
 Filed 07/18/2017
 Effective 03/01/2017
 Agency Contact: Jarvia Shu (510) 286–0646

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# 2017–0608–01
 FISH AND GAME COMMISSION
 Deer Tagging and Reporting

The Fish and Game Commission filed this action to amend California Code of Regulations, title 14, section 708.5, which pertains to deer tagging and reporting requirements. The amendments eliminate delivery of deer hunting report cards in person to the Department of Fish and Wildlife and provide that report cards submitted by mail but not received by the Department of Fish and Wildlife are considered not reported.

Title 14
 AMEND: 708.5
 Filed 07/19/2017
 Effective 10/01/2017
 Agency Contact: Jon Snellstrom (916) 653–4899

File# 2017–0608–02
 FISH AND GAME COMMISSION
 Mammal Hunting

This action by the Fish and Game Commission (FGC) sets the number of license tags available for several game mammals in hunting zones throughout the state, modifies season dates and hunt periods, and establishes the Goodale Tule Elk Hunt Zone. FGC also makes non-substantive changes to update cross-references to the Fish and Game Code and Authority and Reference citations.

Title 14
 AMEND: 360, 361, 362, 363, 364, 364.1
 Filed 07/17/2017
 Effective 07/17/2017
 Agency Contact: Jon Snellstrom (916) 653–4899

File# 2017–0608–03
 FISH AND GAME COMMISSION
 Waterfowl

The Fish and Game Commission filed this action to amend California Code of Regulations, title 14, section 502, which pertains to hunting of specified migratory

waterfowl in various zones throughout California. The amendments to section 502 re-designate portions of the boundaries for the Southern San Joaquin Valley Zone and the Colorado River Zone, and re-designate some of the dates or times for hunting specified waterfowl and related daily bag and possession limits in all zones.

Title 14
 AMEND: 502
 Filed 07/19/2017
 Effective 07/19/2017
 Agency Contact: Jon Snellstrom (916) 653-4899

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 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

File# 2017-0622-04
 STATE ATHLETIC COMMISSION
 Headgear

This regular resubmittal by the State Athletic Commission adopts section 610 in title 4 of the California Code of Regulations. Section 610 both requires that amateur boxers wear Commission-approved headgear and lists the criteria the Commission considers prior to granting an exception to this requirement.

Title 4
 ADOPT: 610
 Filed 07/18/2017
 Effective 07/18/2017
 Agency Contact: Sophia Cornejo (916) 263-2196

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN February 15, 2017 TO
 July 19, 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

CALIFORNIA REGULATORY NOTICE REGISTER 2017, VOLUME NO. 30-Z

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

07/17/17 AMEND: 3435(b)
 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,
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