



California Regulatory Notice Register

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SEPTEMBER 22, 2017

PROPOSED ACTION ON REGULATIONS

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

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<p>PROPOSED ACTION ON REGULATIONS</p>
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**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

The Department of Food and Agriculture amended subsection 3439(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Huanglongbing (HLB) Disease Interior Quarantine as an emergency action that was effective on May 8, 2017. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance.

This notice is being provided to be in compliance with Government Code Section 11346.4.

PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.651.2900 or by email to Dean.Kelch@cdfa.ca.gov. The written comment period closes at 5:00 p.m. on November 6, 2017. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Dean Kelch
Department of Food and Agriculture
Plant Health and Pest Prevention Services
1220 N Street
Sacramento, CA 95814
Dean.Kelch@cdfa.ca.gov
916.403.6650
916.651.2900 (FAX)

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Existing law provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as she deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code [FAC] Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate the pest (FAC Section 5761).

Anticipated Benefits from This Regulatory Action

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

The existing law obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution, but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal. This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

The specific anticipated benefits of the amendment of this regulation are:

The adoption of this regulation benefits the citrus industries (nursery and fruit) and the environment by establishing eradication authority enabling the removal of HLB-infested host material from the environment. By removing the sources of HLB inocula it is biologically feasible to confine HLB's devastating impacts to the smallest area possible.

FAC Section 401.5 states, “The department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state.” The adoption of this regulation is one step to mitigate the spread of HLB through its vector, the Asian citrus psyllid (ACP). This prevents the ACP from naturally spreading and increasing the chances of successfully containing the disease to the smallest area possible.

All eradication activities are conducted by the Department. Except for curry plants (*Murraya spp.*), any other host material infected with HLB will die, as there is no cure. Homeowners and others will benefit by having this host material removed at no cost to them.

California consumers benefit as the fruit from host trees infected with HLB is inedible. Confining HLB infestations to the smallest area possible ensures citrus fruit and other host fruits are available for consumption at reasonable prices.

The Department considered any other possible related regulations in this area; we find that these are the only regulations dealing in this subject area, and the only State agency that can implement plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is consistent and compatible with existing state regulations. There is no existing, comparable federal regulation or statute regulating the intrastate movement of ACP hosts.

AMENDED TEXT

This emergency rulemaking action expanded the quarantine area for HLB in the La Habra area of Los Angeles and Orange counties by approximately 56 miles. The expansion of the quarantine area results in combining the Hacienda Heights and San Gabriel area quarantine with the Cerritos area quarantine. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against HLB within this additional area. The total area that would be under regulation is now approximately 331 square miles.

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 and no other nondiscretionary costs or savings to local agencies or school districts.

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

Significant effect on housing costs: None.

Small Business Determination

The Department has determined that the proposed regulations may affect small business.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

The Department is not aware of any specific benefits that the amendment of this regulation would have pertaining to California worker safety. The Department believes the amendment of this regulation benefits the general health and welfare of California residents by ensuring the availability of citrus for consumption at reasonable prices and protecting the economic benefits the estimated \$2.19 billion per year citrus industry brings to the State’s economy. This regulation benefits over 99 percent of the citrus industries (nursery and fruit) that are located outside the quarantine area. The amendment of this regulation helps protect this economic engine and food source which benefits the general health and welfare of California residents. This amendment protects thousands of backyard gardeners throughout California who produce large quantities of fruit for their own use, and it supports the traditions, especially in the Asian culture, that many families have for growing and using citrus fruit. The amendment of this regulation also promotes the economic well-being of agriculturally dependent rural California communities and reduces the potential adverse environmental impacts caused by HLB [Gov. Code Sec. 11346.3(b)].

ALTERNATIVES CONSIDERED

The Department must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would neither be more effective in carrying out the purpose for which the action is proposed nor would be as effective and less burdensome to affected private persons nor 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.

AUTHORITY

The Department proposes to amend Section 3439(b) pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763, Food and Agricultural Code.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Dean Kelch, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room 210, Sacramento, California 95814, (916) 403-6650, FAX (916) 651-2900, E-mail: Dean.Kelch@cdfa.ca.gov. In his absence, you may contact Laura Petro at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Dean Kelch.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of

the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

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

TITLE 3. FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (herein after referred to as “Department”) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person **beginning September 22, 2017 and ending at 5:00 p.m. on November 6, 2017.** Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 407, Food and Agricultural Code; and Section 11400.20, Government Code, and to implement, interpret or make specific sections 9166, 9641.5, 10341, 10342, 10610, 10721, 17042, 17043, 17045, 17061, 17062, 17068, 17092, 17096, 17121, 17122, 17551, 17552, 17553, 17951, 18982, 18983, 18991, 19001, 19002, 19302, 19305.5, 19310, 19310.5, 19310.7, 19311, 19312, 19313, 19313.1, 19313.5, 19314, 19315, 19316, 19317, and 19447, Food and

Agricultural Code; Article 4 (commencing with section 10351), Chapter 3, Part 2, Division 5, Food and Agricultural Code; Chapter 1 (commencing with section 9101), Chapter 1.5 (commencing with section 9210), Chapter 2, sections 9301 through 9352, Chapter 3 (commencing with section 9641.5) of Part 1, Chapter 2 (commencing with section 9901), Chapter 3 (commencing with section 10301) of Part 2, Food and Agricultural Code; Chapter 1, section 10701 of Part 3, and Chapter 1 (commencing with section 11201) of Part 4, Division 5, Food and Agricultural Code; Part 1 (commencing with section 16301), Division 9, Food and Agricultural Code; Division 10 (commencing with section 20151), Food and Agricultural Code; Division 11 (commencing with section 23001), Food and Agricultural Code; Article 2 (commencing with section 32731), Chapter 2, Part 1, Division 15, Food and Agricultural Code; Article 4 (commencing with section 32761), Chapter 2, Part 1, Division 15, Food and Agricultural Code; Article 8 (commencing with section 33251), Article 9 (commencing with section 33291) of Chapter 4, Part 1, Division 15, Food and Agricultural Code; Chapter 10 (commencing with section 34501) of Part 1, Division 15, Food and Agricultural Code; Part 2 (commencing with section 35601) and Part 3 (commencing with section 36601) of Division 15, Food and Agricultural Code; Chapter 4.5 (commencing with section 11400), Part 1, Division 3, Title 2, Government Code; and Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2, of the Government Code, the Department is proposing to amend sections 1310, 1310.1, 1310.2, and 1310.3 and to adopt section 1310.4 of Article 1, Chapter 9, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW/BENEFITS**

Existing law, section 407 of the Food and Agricultural Code, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which she is directed or authorized to administer or enforce.

Existing law, section 11400.20 of the Government Code, specifies that an agency may adopt permanent regulations to govern an adjudicative proceeding under the chapter [Chapter 4.5, Administrative Adjudications: General Provisions, sections 11400–11475.70].

Existing law, Food and Agricultural Code sections 9562 and 9570, authorize the State Veterinarian to quarantine animals and animal products if there is any seri-

ous threat to public health and safety, or to the safety of the State’s food supply.

Existing regulations, sections 1301.2 and 1301.3 of Title 3 of the California Code of Regulations, specify the informal hearing procedures for a person to contest a quarantine order issued by the State Veterinarian.

For violations that do not result in the immediate quarantine order, the Department would serve a notice of a citation or letter of impending action [sometimes called a notice of adverse determination] against an individual who violated specified statutes and regulations pertaining to animals and/or animal products. Regulations exist under Title 3 of the California Code of Regulations in sections 1310–1310.3 which allow a person to appeal such adverse actions or determinations issued by the Department through an informal hearing process.

This proposal amends the Department’s existing informal hearing regulations under Title 3, sections 1310–1310.3, to add and reorganize the statutes that may be utilized via the informal hearing process should a person be in violation of those statutes, and any regulations implementing those statutes, after an investigation and review of the evidence presented in the matter. This proposal also amends the time frames for a person to request an informal hearing from the Department, and adds new section 1310.4 to address enforcement matters that involve animals or animal products and time constraints involving the health and safety of live animals or perishable food products. This proposal also makes technical changes for consistency and clarity purposes.

Anticipated Benefits of the Proposal: This proposal benefits both the Department and the public. The purpose is to provide the informal hearing process to persons found to be in violation of specified provisions of the Food and Agricultural Code and any regulations that implement said Code. It would pertain to offenses that do not involve an immediate threat to public or animal health and safety and would not involve an immediate threat to the State’s food supply. It is a way to adjudicate less egregious offenses in a timely and cost-effective manner.

Consistency and Compatibility with Existing State Regulations: The Department has evaluated this proposal and believes that it is not inconsistent or incompatible with existing State regulations. The Department may establish and implement, via regulation, informal hearing procedures in accordance with Chapter 4.5 (commencing with section 11400) of Part 1, Division 3, of Title 2 of the Government Code.

Documents Incorporated by Reference: None.

Documents Relied Upon in Preparing Regulations:
None.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies:
None.

Local Mandate: None.

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

Business Impact: The Department has made an initial determination that the proposed regulatory action will not have any significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The determination is based on the fact that the proposal only affects persons found to be in violation of specified statutes (after examination of the complaint and the evidence presented) and any regulations that implement those statutes. For example, violations for agriculture-related misdemeanors are typically small penalties of \$500 or less. If a person contests that violation, it could be handled through the Department's informal hearing process.

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. It pertains to persons or businesses who may be found to be in violation of specified statutes of the Food and Agricultural Code and any regulations implementing those statutes.

Persons/Businesses affected by this proposal:

- This proposal affects any person, whether he or she is required to be licensed or registered by the Department under its existing statutes or regulations or to any unlicensed or unregistered person who may be found conducting certain agriculture-related businesses in the State, or to any other person who is found, after investigation, to be in violation of the Department's statutes or regulations. Depending upon the facts presented in each case, the matter may be adjudicated using the Department's internal, informal hearing process. It is a way to adjudicate matters in a timely and cost-effective manner for all affected parties.

Anticipated compliance requirements as a result of this proposal:

- The proposal contains no specific record keeping, paperwork or reporting requirements. It provides information to persons who may be found in violation of specified statutes or regulations of the Department, and provides filing deadlines and procedures if they wish to contest an adverse action issued by the Department and request an informal hearing.

Effect on Housing Costs: None.

Effect on Small Businesses: The Department's proposal may affect small businesses if a licensee or registrant of the Department is found, after investigation and the facts presented in the case, to be in violation of specified statutes or regulations, and that person may also be a small business owner as defined in Government Code section 11342.610.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

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

The Department has made a determination that this regulatory proposal:

- Will not have any significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations.
- Will not affect the creation of new businesses or the elimination of existing businesses within the State of California, and does not affect the expansion of businesses currently doing business within the State of California.
- Does not impact multiple industries.
- Will impact any person who is found, after investigation, to be in violation of statutes and regulations of the Department and he or she requests an informal hearing to contest a notice of violation. The Department's proposal may affect small businesses.
- Benefits both the Department and the public. The purpose is to provide the informal hearing process to persons found to be in violation of specified provisions of the Food and Agricultural Code and

any regulations that implement said Code. It would pertain to offenses that do not involve an immediate threat to public or animal health and safety and would not involve an immediate threat to the State's food supply. It is a way to adjudicate less egregious offenses in a timely and cost-effective manner.

Benefits of the proposed regulation to the health and welfare of California residents, worker safety, and the State's environment: The proposed regulation does not directly impact human health and welfare, worker safety, and the environment. The Department's informal hearing process is designed to handle enforcement actions that do not involve an immediate threat to public health and safety.

This regulatory proposal will provide clarity to the public as to the statutes that are included in the informal hearing process and any regulations implementing those statutes that would be reasonable to adjudicate in a timely and cost-effective manner which would benefit both the Department and the person who is contesting the adverse determination issued by the Department.

The above determinations are based on the fact this regulatory proposal is necessary to update the statute citations and the procedures for the implementation of the Department's informal hearing process in accordance with section 407 of the Food and Agricultural Code and section 11400.20 of the Government Code.

Occupations/Businesses Impacted: The Department has made an initial determination that this regulatory proposal will impact any person who is found to be in violation of specified agriculture-related provisions of the Food and Agricultural Code and any regulations that implemented said Code.

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

Comparable Federal Regulations: This proposal does not duplicate or conflict with federal regulations. Federal violations would be addressed by the federal authorities responsible for enforcement. Such enforcement could be administrative, civil, or criminal, depending upon the statutory authority of the program. Federal authorities would pursue such actions independent of the Department.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought 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. This regulatory proposal is necessary to update the statute citations and the procedures for the implementation of the Department's informal hearing process in accordance with section 407 of the Food and Agricultural Code and section 11400.20 of the Government Code.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the hearing (if a hearing is requested) or during the written public comment period.

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained by contacting the persons named below or by accessing the Department of Food and Agriculture's website as indicated below in this Notice.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

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

CONTACT PERSONS

Inquiries and any written comments concerning this proposal are to be addressed to the following:

Nancy Grillo, Legislation & Regulation
Coordinator
Department of Food and Agriculture
Animal Health & Food Safety Services
Division/Administration
1220 N Street, Sacramento, CA 95814
Telephone (916) 900-5033
E-mail: nancy.grillo@cdfa.ca.gov

The backup contact person is:

Thamarah Rodgers, Legislation & Regulation
Coordinator
Department of Food and Agriculture
Animal Health & Food Safety Services
Division/Administration
1220 N Street
Sacramento, CA 95814
(916) 698-3276
E-mail: thamarah.rodgers@cdfa.ca.gov

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

TITLE 4. CALIFORNIA HORSE RACING BOARD

NOTICE OF PROPOSAL TO AMEND RULE 1685, EQUIPMENT REQUIREMENT RULE 1688, USE OF RIDING CROP

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

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1685, Equipment Requirement, to revise subsections 1685(b) and (d) to change the text to replace the word “whip” with “riding crop.” The proposed amendment to Rule 1685 also amends subsection (b) to require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. Additionally, the Board proposes to amend Rule 1688, Use of Riding Crop, to make the existing provisions regarding use of the riding crop (except subsections (b)(2) and (b)(4)) applicable to both jockeys and exercise riders during training.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, November 16, 2017**, or as soon thereafter as business before the Board will permit, at the **Del Mar Surfside Race Place, 2260 Jimmy Durante Blvd., Del Mar, California**. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the informative digest. It is requested, but not required, that

persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on November 6, 2017**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Nicole Lopes-Gravely, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-mail: nlgravely@chrh.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, and 19562, Business and Professions Code. Reference: Sections 19440, 19441.2, 19481, and 19562, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides that jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but are not limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19441.2 states in its annual report required under section 19441 the Board shall include recommendations concerning the worker safety impacts of improvements in jockey equipment. Business and Professions Code section 19481 provides that in performing its responsibilities, the Board shall establish safety standards governing equipment for horse and rider. Business and Professions Code section 19562 states the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in California.

The Board proposes to amend Rule 1685 to change the text to replace the word “whip” with “riding crop.” In 2015, the Board amended Rule 1688 to replace the word “whip” with “riding crop.” Whip and riding crop are the same item; however, “riding crop” is more specific and is the word used by the horse racing industry to describe the tool used to encourage and help maintain control of race horses. However, Rule 1685 has not been updated to reflect the recent changes made to Rule 1688. The proposed amendment to Rule 1685 also amends subsection 1685(b) to require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. Rule 1685 sets the weight, type of flap, and length of whips authorized for use by jockeys which are designed to lessen injury and promote the health and safety of race-horses. The amendment to Rule 1685 is necessary to create consistency between Board rules and to be consistent with similar changes adopted by other racing jurisdictions.

The Board proposes to amend Rule 1688 subsection (b) to make the existing provisions regarding use of the riding crop during a race applicable to both jockeys and exercise riders during training. A new subsection (c) states subsections (b)(2) and (4) shall not apply to jockeys and exercise riders during training. Subsections (b)(2) and (4) are exempt because they identify situations that only occur during a race and not during training. The purpose of subsection 1688(b) is to curtail and prevent the excessive use of the riding crop. The riding crop is a tool that is used not only to encourage race horses, but also to maintain control. The riding crop is used in certain situations for safety because it provides a measure of control over the horse in critical situations; however, excessive or inappropriate use of the riding crop presents a horse welfare issue. Under the proposed subsection 1688(b) jockeys and exercise riders will be prohibited from using a riding crop: during training on any part of the horse except the shoulders and hind quarters; excessively or brutally causing welts or breaks in the skin; persistently even though the horse is showing no response under the riding crop; or more than three times in succession without giving the horse a chance to respond before using the riding crop again. This is necessary because race horses are in training several hours or more a day, five to seven days a week. In addition to ensuring the humane treatment of the horse, it is necessary to update Rule 1688 to apply the same provisions required of jockeys during a race to jockeys and exercise riders during training in order to maintain consistency within the rule.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 1685 and Rule 1688, Equipment Requirement, will revise subsections 1685(b) and (d) to change the text to replace the word “whip” with “riding crop.” The proposed amendment to Rule 1685 will also amend subsection (b) to require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. The proposed amendment to Rule 1688, Use of Riding Crop, will make the existing provisions regarding use of the riding crop (except subsections (b)(2) and (b)(4)) applicable to both jockeys and exercise riders during training. The proposed amendment to Rule 1685 and Rule 1688 promotes the protection of jockey, exercise rider, and horse health and safety. The Board considers animal welfare and good sportsmanship fundamental for the success of horse racing. The proposed amendment to Rule 1685 and 1688 provides direction on the appropriate type and use of the riding crop so that it will be used for safety, correction, or to encourage the horse without causing distress. If the safety practices of riders improve, the public will see horse racing as a sport that cares, which may result in an increase of attraction to the sport. An increase of attraction to the sport could result in an increase in wagering which will have a positive economic impact on the industry.

CONSISTENCY EVALUATION

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

DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

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

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

The Board has made an initial determination that the proposed amendment to Rule 1685 and Rule 1688 will

not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The following studies/relevant data were relied upon in making the above determination: none.

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

Significant effect on housing costs: none.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendment to Rule 1685 and Rule 1688 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California. The proposed amendment to Rule 1685 and Rule 1688 is a benefit to the health and welfare of California residents because it promotes the protection of jockey, exercise rider, and horse health and safety. The proposed amendments provide direction on the appropriate type and use of the riding crop so that it will be used for safety, correction, or to encourage the horse without causing distress; therefore, these regulations will increase the safety and welfare of equine athletes and their riders.

Effect on small businesses: none. The proposal to amend Rule 1685 and Rule 1688 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSON

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

Nicole Lopes-Gravely, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-mail: nlgravely@chr.ca.gov

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

Laurel Houle, Regulation Analyst
Policy and Regulations
Telephone: (916) 274-6043

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

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

AVAILABILITY OF MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT
OF REASONS

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

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board’s web site address is: www.chrb.ca.gov.

**TITLE 14. DEPARTMENT OF
CONSERVATION**

PIPELINE TESTING REGULATIONS

**TITLE 14. NATURAL RESOURCES
DIVISION 2. DEPARTMENT OF
CONSERVATION
CHAPTER 4. DEVELOPMENT, REGULATION,
AND CONSERVATION OF OIL AND
GAS RESOURCES
SUBCHAPTER 2. ENVIRONMENTAL
PROTECTION**

NOTICE IS HEREBY GIVEN that the California Department of Conservation (Department) proposes to adopt the regulations described below after consideration of all comments, objections, and recommendations regarding the proposed action. With this rulemaking, the Department will propose permanent regulations after the consideration of all comments, objections, and recommendations.

**WRITTEN COMMENT PERIOD AND PUBLIC
COMMENT HEARINGS**

Any person, or his or her authorized representative, may submit written statements, arguments, or comments relevant to the proposed regulatory action to the Department. Comments may be submitted by email to DOGRRRegulations@conservation.ca.gov, by facsimile (FAX) to (916) 324–0948, or by mail to:

Department of Conservation
ATTN: Pipeline Testing Regulations
801 K Street, MS 24–02
Sacramento, CA 95814

The written comment period closes at 5:00 p.m. on November 10, 2017. The Department will consider only comments received at the Department’s offices by that time.

Any interested person, or his or her authorized representative, may present, either orally or in writing, comments regarding the proposed action at one of the public hearings to be held at the following time and place:

- Los Angeles — November 8, 1:00 p.m.–4:00 p.m. Ronald Reagan Building, 300 South Spring Street, Los Angeles, CA 90013.
- Bakersfield — November 9, 4:00 p.m.–7:00 p.m. Four Points by Sheraton, 5101 California Avenue, Bakersfield, CA 93309.

Services, such as translation between English and other languages, may be provided upon request. To ensure availability of these services, please make your request no later than ten working days prior to the hearing by calling the contact person referenced in this notice.

Servicios, como traducción de Inglés a otros idiomas, pueden hacerse disponibles si usted los pide en avance. Para asegurar la disponibilidad de éstos servicios, por favor haga su petición al mínimo de diez días laborales antes de la reunión, llamado a la persona de contacto mencionada en este aviso.

AUTHORITY AND REFERENCE

The Department is proposing changes to Subchapter 2 of Chapter 4 of Division 2 of Title 14 of the California Code of Regulations as follows: amendments to sections 1760, 1774, 1774.1, and 1774.2.

Public Resources Code sections 3013 and 3270 authorize the Department to adopt the proposed regulations. The proposed regulations will implement, interpret, make specific, or reference sections 3010, 3106, 3224, 3270, and 3270.5.

INFORMATIVE DIGEST/POLICY STATEMENT

Existing Law

The Division of Oil, Gas, and Geothermal Resources (Division), within the Department of Conservation, supervises and regulates oil, gas, and geothermal well operations, including their attendant facilities, throughout the State. (See Pub. Resources Code, § 3106.) The Division carries out its regulatory authority to encourage the sensible development of oil and gas resources, while preventing damage to life, health, property, and natural resources. Existing regulations require testing on all ac-

tive environmentally sensitive pipelines that are gathering lines and all urban pipelines over 4 inches in diameter every two years, excluding pipelines under 10 years old. (Cal. Code Regs., § 1774.1, subd. (e).) They also require operators to prepare and maintain Pipeline Management Plans (PMPs) for all of their pipelines to be made available to the State Oil and Gas Supervisor upon request. (Cal. Code Regs., § 1774.2.)

Assembly Bill 1420 (Salas, Chapter 601, Statutes of 2015)(AB 1420), which became effective on January 1, 2016, requires the Division to review, evaluate, and update, where appropriate, its existing regulations regarding all active gas pipelines that are 4 inches or less in diameter, located in sensitive areas, and 10 years old or older. In the review and evaluation of its regulations, the Division must consider existing pipeline integrity, pipeline leak detection, and other pipeline assessment requirements imposed by other regulators to determine which of these forms of assessment meet the Division's needs.

Proposed Regulations

In March 2014, eight families were evacuated from their homes in Arvin, California due to a leak in a small pipeline buried nearby. The leaking pipeline was a buried waste gas pipeline of approximately three inches in diameter, which, because of its small size and the fact that it did not carry liquid hydrocarbons, was not subject to periodic mechanical integrity testing (MIT) under existing regulations. Existing regulations expressly require periodic MIT for gathering lines of any size that carry liquid hydrocarbons in environmentally sensitive areas and for all pipelines that are at least 4 inches in diameter in urban areas.

In the passage of AB 1420, the Legislature found that existing regulations were insufficient to protect the community from a serious gas leak of the type that occurred in Arvin. AB 1420 therefore directs the Department of Conservation, Division of Oil, Gas & Geothermal (Division) to update its regulations for active pipelines in sensitive areas that are less than 4 inches in diameter and more than 10 years old to ensure their integrity and to prevent, to the extent possible, damage to life, health, property and natural resources.

Pipeline leaks happen when the integrity of the pipeline is compromised. Common causes of pipeline failure include corrosion, excavation damage, natural force damage, and material or weld failures. MIT can detect these types of failures as they begin, in many cases giving operators the time to institute repairs before a leak or failure occurs.

The proposed regulations effectuate the goals of AB 1420 and the Division's broader regulatory mandate under Public Resources Code section 3106 by addressing

gaps in the regulatory requirements for active pipelines in sensitive areas that are 10 years old or older. In addition, the proposed regulations amend the existing requirements for PMPs to ensure that PMPs include complete information and effective planning to safely maintain pipelines, and that up-to-date information is readily available to the operators and the Division.

The proposed regulations are intended to supplement the Division's current regulatory framework for pipeline MIT and PMP requirements with the following objectives:

- Address MIT requirements for all in-service gas pipelines, regardless of diameter, that lie within an area sensitive to risk: in close proximity to a residence or school, in an area with pre-existing hazards, or an area known to have a history of chronic leaks.
- Address visual inspections that must be conducted on all active gas pipelines in sensitive areas.
- Provide a regulatory framework that satisfies the mandates of AB 1420 and that offers multiple MIT options that are either industry standards or methods approved by other State or federal regulators.
- Ensure regular review of test results to facilitate adequate management of risks identified and that the information necessary to ensure pipeline safety is readily available to the Division and the operator.
- Provide local government or other State agency the opportunity to petition the Supervisor to designate specified pipelines as pipelines within a sensitive area.
- Prompt operators to plan for hazard mitigation and emergency response and provide the Division with the detailed information necessary to better ensure safe pipeline operations.

Anticipated Benefits

The proposed regulations supplement the Division's current regulatory framework concerning the location, testing, and maintenance of gas pipelines in sensitive areas to meet the mandates of AB 1420. The proposed regulations satisfy the goals and requirements of AB 1420 by requiring the testing of smaller diameter gas pipelines in sensitive areas, and requiring operators to provide more information to the Division concerning their pipelines.

The proposed regulations will also protect public health and safety and the environment by requiring preventative testing, inspection, and maintenance of all active gas pipelines located in "sensitive areas" that are 10 years old or older.

Consistency with Comparable Federal Statutes or Regulations

The proposed regulations are not inconsistent or incompatible with federal statutes or regulations. The US Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), is the federal agency primarily responsible for pipeline regulation and safety. (49 USC, § 108, subd. (b), (f).) It adopts regulations that prescribe minimum pipeline safety standards for the pipeline transportation of natural gas and hazardous liquids. (See 49 CFR, §§ 190–192, 195.) PHMSA requires operators to conduct MIT in intervals of 7, 10, or 20 years, depending upon the specific yield strength of the pipeline. (See 49 CFR, § 192, App. E.) The two–year testing regime in the proposed regulations for active gas pipelines in sensitive areas is more stringent than the federal counterpart, and the proposed regulations do not prevent operators from complying with both sets of regulations.

PHMSA also requires operators to “patrol” transmission line surface conditions for indications of leaks at least 4 times each calendar year and conduct leakage surveys on transmission lines and distribution systems at intervals not exceeding 15 months, but at least once every calendar year in densely populated areas. (49 CFR, §§ 192.706, 192.723, subd. (a).) The proposed regulations do not affect transmission lines or distribution systems; rather, they only affect those pipelines within the administrative boundaries of oil and gas fields. Therefore, nothing in the proposed regulations is inconsistent or incompatible with federal statutes or regulations.

CONSISTENCY WITH EXISTING STATE REGULATIONS

The California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA), regulates pipelines from the perspective of employee health and safety. Cal/OSHA designates pipelines carrying natural gas as Class 2 pipelines. (Cal. Code of Regulations, title 8, § 6533, subd. (b)(3)(B)(2).) As such, these pipelines need only be inspected on a representative sampling, and “[t]he inspection interval shall not exceed 10 years or half the remaining life as determined from the corrosion rate calculation, whichever is less.” (Cal. Code of Regulations, title 8, § 6533, subd. (b)(4)(B)(2).) The Department’s proposed regulations require a more stringent annual inspection regime for those active gas pipelines in sensitive areas. This better protects the public and the environment from the ill effects of leaking gases. Further, the proposed regulations do not prevent operators from

complying with the requirements of Cal/OSHA’s statutes and regulations.

The California Public Utilities Code (CPUC) is responsible for regulating and enforcing intrastate gas pipeline transportation and facilities. (Pub. Utilities Code, § 955.) Traditionally, the two agencies agreed that their responsibilities would be split at the wellhead, relying on the Division’s expertise over wells and subsurface issues and the CPUC’s general regulatory jurisdiction over utilities and its status as a US Department of Transportation certified pipeline safety inspector. A Memorandum of Agreement between CPUC and the Division requires the agencies to actively coordinate across all jurisdictional areas to ensure the safe operation of underground natural gas storage facilities and continued coordination and input from uniquely qualified personnel at each agency to fully inform the work of both agencies. The proposed regulations do not disturb the agreement with the CPUC and are not inconsistent or incompatible with CPUC regulations.

The Office of the State Fire Marshal (SFM) has regulatory and enforcement authority over the safety of intrastate hazardous liquid pipelines. (Gov. Code, § 51010.) Through SFM’s limited definition of “pipeline” and a Memorandum of Agreement with the Division, the Division, and not SFM, has authority over all pipelines “attendant to” oil and gas production, including pipelines within the administrative boundaries of oil and gas fields or that exist on the lease between the wellhead and custody transfer point. (See Gov. Code, § 51010.5, subd. (a).) The proposed regulations only affect Division–regulated gas pipelines; therefore, none of these regulations are inconsistent or incompatible with SFM regulations.

PLAIN ENGLISH REQUIREMENT

The Department staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code section 11349, subdivision (c), and the plain English requirements of Government Code sections 11342.580 and 11346.2, subdivision (a)(1). The proposed regulations are written so as to be easily understood by the persons that will use them.

LOCAL MANDATE

The proposed action does not impose a mandate on local agencies or school districts.

COST OR SAVINGS TO STATE AGENCIES

Cost or Savings to State Agencies: Implementation of the requirements in the proposed regulations would require a baseline appropriation of approximately

\$597,000 the first year and roughly the same amount ongoing.

Non-Discretionary Costs or Savings to Local Agencies, Including Costs to any Local Agency or School District Requiring Reimbursement Pursuant to Section 17500 et seq.: None. The proposed action will not result in any costs or savings to local agencies.

Cost or Savings in Federal Funding to the State: None. The proposed action does not affect federal funding to the State.

IMPACT ON BUSINESS

The Department has made an initial determination that the adoption of these regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Department will consider proposed alternatives that would lessen any adverse impact on business and invites you to submit proposals. Submissions may include the following considerations:

- The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- Consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

This rulemaking will affect businesses engaged in the operation of active gas pipelines in sensitive areas within the administrative boundaries of oil and gas fields in the State. The following compliance requirements are projected to result from the proposed regulations:

- The proposed regulations require mechanical integrity testing for all pipelines that were not previously required to be tested in sensitive areas every two years unless the pipeline is less than 10 years old.
- The proposed regulations require annual inspection of all active gas lines 10 years old or older in sensitive areas.
- The proposed regulations require preparation and submission of a PMP.

IMPACT ON SMALL BUSINESS

The proposed regulations may affect small business.

COST IMPACTS ON A REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department drafted the proposed regulations after careful consideration of current best practices in pipeline operation as well as similar statutes and regulations implemented by other federal and state agencies. Additionally, the Department drafted the proposed regulations based on the requirements of AB 1420. The following areas of the proposed regulations have been identified by the Department as potentially resulting in economic impact on a representative operator:

- Increased inspection for active gas pipelines in sensitive areas.
- Increased testing for active gas pipelines in sensitive areas that are under 4 inches in diameter and 10 years old or older.
- Increased testing for a small subset of active gas pipelines in sensitive areas that are over 4 inches in diameter and 10 years old or older, if they are located within the statutory definition of a “sensitive area” but outside the regulatory definition of an “urban area.”
- Preparation and submittal of an amended Pipeline Management Plan with additional components.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Based upon its analysis, the Department determined:

- The proposed regulations will not affect the creation or elimination of jobs within the State of California.
- The proposed regulations will not affect the creation of new businesses or the elimination of existing businesses within the State of California.
- The proposed regulations will not affect the expansion of businesses currently doing business in the State of California.
- The proposed regulations will not affect the ability of businesses within California to compete with businesses in other states.

The proposed regulations satisfy the Division’s statutory mandate under AB 1420 to address the testing and monitoring of active gas pipelines in sensitive areas, particularly those that are 4 inches or less in diameter and 10 or more years old. The proposed regulations also satisfy the Division’s statutory mandate to prevent damage to life, health, property, and natural resources by ensuring that active gas pipelines in sensitive areas are properly maintained and monitored throughout their lifespan.

In addition to satisfying the statutory mandate, the Department has determined that the proposed regula-

tions will result in nonmonetary benefits, such as protection of public health and safety, worker safety, and transparency in business and government. Specifically, the benefits are:

- The regulations will provide clarity for the Division, operators, and the public regarding mechanical integrity testing frequency and methods as required for all active gas pipelines in sensitive areas that are more than 10 years old.
- The Division will receive comprehensive information necessary to monitor the integrity of active gas pipelines in sensitive areas. The information will provide assurances of proper testing and will facilitate oversight for the safe operation of active gas pipelines in sensitive areas.
- Operators will be provided with clear instructions for the preparation of PMPs through the clarification of what information is required. The goal is to ensure that all active gas pipelines in sensitive areas are known and readily accessible in the event of a leak or emergency situation.
- Proactive testing and preventative maintenance will provide assurances to the public that active gas pipelines in sensitive areas are operated safely and tested using best industry practices.
- The increased testing of active gas pipelines in sensitive areas will not only help prevent leaks, it will also reduce the number of air pollution violations, reduce Occupational Safety and Health Administration (OSHA) violations, reduce the costly response burden for local and regional governmental agencies, including emergency response personnel, and will protect and benefit the health of nearby communities as well as the environment.

BUSINESS REPORTING REQUIREMENT

The proposed regulations also establish business reporting and recordkeeping requirements. While operators have been required to maintain a Pipeline Management Plan, the proposed regulations require additional components and submittal to the Department. It is necessary for the health, safety, or welfare of the people of the state that the regulation which requires a report apply to businesses.

HOUSING COSTS

The proposed action will not have a significant effect on housing costs.

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 was otherwise identified and brought to the Department's attention, 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 persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to submit comments regarding alternatives to the proposed regulations during the written comment period, or to present any such comments regarding alternatives, either orally or in writing, at the hearing scheduled to receive comments relevant to the proposed action.

CONTACT PERSONS/AVAILABILITY OF DOCUMENTS

Inquiries concerning the proposed action may be directed to:

Mr. Tim Shular
Office of Governmental and Environmental Relations
Department of Conservation
801 K Street, MS 24-02
Sacramento, CA 95814
Phone: (916) 322-3080
Email: DOGGRRegulations@conservation.ca.gov

Ms. Blair Gollihur
Office of Governmental and Environmental Relations
Department of Conservation
801 K Street, MS 24-02
Sacramento, CA 95814
Phone: (916) 322-3080
Email: DOGGRRegulations@conservation.ca.gov

The Department has made available the express terms of the regulation, the Initial Statement of Reasons, and all the information upon which the proposal is based (the rulemaking record). Copies of these documents are available from the contact persons listed above. In addition, the rulemaking file is available for public inspection at the Department's office.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department will consider all timely and relevant comments received during the written comment period

and at the two public hearings listed above. Thereafter, the Department may adopt the proposed regulations in substantially the same form as described in this Notice.

If the Department makes any modifications to the text of the proposed regulations that are substantial, but sufficiently related to the original proposed text as described in this Notice, the Department will make the modified text (with changes clearly indicated) available to the public for at least 15 days before adopting the proposed regulations as modified. The Department will accept written comments regarding modified regulations for 15 days after the date upon which they are made available to the public. Please send requests for copies of any modified regulations to Attention: Pipeline Testing Regulations at the address indicated above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Tim Shular at the above phone number and address. The Final Statement of Reasons will also be available on our website at <http://www.conservation.ca.gov/dog/general/information/Pages/Pipelines.aspx>.

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 our website at:

<http://www.conservation.ca.gov/dog/general/information/Pages/Pipelines.aspx>.

If you have any questions regarding the process of the proposed action, please contact Tim Shular, Office of Governmental and Environmental Relations at (916) 322-3080, or by email at DOGGRRegulations@conservation.ca.gov.

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections: 200, 202, 203, 3960, 3960.2 and 3960.4 of the Fish and Game Code, and to implement, interpret or make specific Sections 3960, 3960.2 and 3960.4 of said Code, proposes to amend subsection 265(d), Title 14, California Code of Regulations, relating to Use of Dogs for Pursuit/Take of Mammals or for Dog Training,

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 265, Title 14, CCR, by deleting subsections (d)(1) and (d)(2). The current regulations prohibit the use of treeing switches and GPS collar equipment for dogs used in the taking of mammals. Recent changes to statutes have restricted the use of dogs by hunters to only the taking of wild pigs and deer. The prohibition on the use of treeing switches is therefore unnecessary. Allowing the use of GPS collar equipment will improve a hunter's ability to find and retrieve downed game and lost dogs.

BENEFITS OF THE PROPOSED REGULATIONS

The regulation eliminates unnecessary language regarding the prohibition on the use of treeing switches, and permits GPS-equipped collars, increasing the hunters ability to find and retrieve downed wild pigs and deer as well as lost dogs.

CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200, 202 and 203, has the sole authority to regulate hunting in California. Commission staff has searched the California Code of Regulations and has found no other agency with the authority to regulate the use of dogs for hunting mammals. Therefore the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Spring Hill Suites by Marriott, 900 El Camino Real, Atascadero, CA, on Wednesday, October 11, 2017, at 8:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Handlery Hotel, 950 Hotel Circle North, San Diego, CA, on Wednesday, December 6, 2017, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m., November 22, 2017, at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed or emailed to the Commission office, must be received before 12:00 noon on December 1, 2017. All comments must be received no later than December 6, 2017, at the hearing in San Diego, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission’s website at www.fgc.ca.gov. The regulations, as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Jon Snellstrom at the preceding address or phone number. **Jesse Garcia, Wildlife Branch, Department of Fish and Wildlife, (916) 445–3515, has been designated to respond to questions on the substance of the proposed regulations.**

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from, but are sufficiently related to, the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.), or changes made to be responsive to public recommendation and comments during the regulatory process, may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

IMPACT OF REGULATORY ACTION/RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department assessed the potential for significant statewide adverse economic impacts that might result

from the proposed regulatory action and made the following initial determinations relative to the required statutory categories:

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Removing outdated prohibitions on treeing switches and GPS collars is not anticipated to affect current levels of hunting effort for species that can legally be pursued with dogs.

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

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi–generational family activities and promotes respect for California’s environment by the future stewards of the State’s resources. The Commission anticipates benefits to the State’s environment in the sustainable management of natural resources.

The proposed action will not have significant impacts on jobs or business within California and does not provide benefits to worker safety.

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

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

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

EFFECT ON SMALL BUSINESS

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

CONSIDERATION OF ALTERNATIVES

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

TITLE 20. CALIFORNIA ENERGY COMMISSION

**Computers and Light-Emitting Diode Lamps
Appliance Efficiency Rulemaking**

California Energy Commission
Docket No. 17-AAER-15

The California Energy Commission (Commission) proposes to modify existing appliance efficiency regulations for computers to create a new allowance for a discrete GPU that is packaged on the same substrate as the CPU, which is a new and innovative feature or functionality that was not considered at the time of the original rulemaking and that requires additional consideration in the efficiency levels for computers; to make minor modifications to adjust the definitions to better represent computers in the market that were intended to be covered as mobile gaming systems or mobile workstations in the original rulemaking; and to allow manufacturers to report estimated lamp lifetime pending completion of lifetime testing for state-regulated light-emitting diode (LED) lamps and the LED versions of state-regulated small diameter directional lamps (SDDL), in alignment with the Code of Federal Regulations.

**NOTICE THAT A PUBLIC HEARING
IS SCHEDULED**

The date set for the adoption of regulations at a public hearing is as follows:

Commission Business Meeting
November 8, 2017
Beginning 10:00 a.m. (Pacific Time)
California Energy Commission
1516 9th Street
Sacramento, CA 95814
Rosenfeld Hearing Room
(Wheelchair accessible)

Audio for the adoption hearing will be broadcast over the Internet. Details regarding the Commission’s webcast can be found at www.energy.ca.gov/webcast.

If you have a disability and require assistance to participate in these hearings, please contact Poneh Jones at (916) 654-4425 at least 5 days in advance.

ORAL AND WRITTEN STATEMENTS

Interested persons may present oral and written statements, arguments, or contentions regarding the proposed regulations at the hearing, or, prior to the hearing, may submit written comments to the Commission for consideration no later than 5:00 p.m. on November 6, 2017. The Commission appreciates receiving written comments at the earliest possible date.

Please submit comments to the Commission using the Commission’s e-commenting feature by going to the Commission’s appliance efficiency rulemaking webpage at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=17-AAER-15> and click on the “Submit e-comment” link. A full name, e-mail address, comment title, and either a comment or an attached document (.doc, .docx, or .pdf format) is mandatory. After a challenge-response test used by the system to ensure that responses are generated by a human user and not a computer, click on the “Agree & Submit Your Comment” button to submit the comment to the Commission’s Docket Unit.

Please note that written comments, attachments, and associated contact information included within the written comments and attachments (e.g., your address, phone, email, etc.) become part of the viewable public record.

You are encouraged to use the electronic filing system, described above, to submit comments. All written comments submitted prior to the hearing must be submitted to the docket unit. If you are unable to submit

electronically, a paper copy of your comments may be sent to:

Docket Unit
California Energy Commission
Docket No. 17-AAER-15
1516 9th Street, MS-4
Sacramento, CA 95814
Telephone: (916) 654-5076
Or e-mail them to: Docket@energy.ca.gov

PUBLIC ADVISER

The Commission's Public Adviser's Office is available to assist any person who wishes to participate in this proceeding. For assistance from the Public Adviser's Office, please call (916) 654-4489 or toll-free in California at (800) 822-6228 or contact publicadviser@energy.ca.gov.

STATUTORY AUTHORITY AND REFERENCE

Government Code Section 11346.5(a)(2) and
1 California Code of Regulations 14

Authority: Sections 25213, 25218(e), and 25402(c), Public Resources Code.

Reference: Sections 25216.5(d) and 25402(c), Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Government Code Section 11346.5(a)(3)

Existing laws and regulations related directly to the proposed action and effect of the proposed rulemaking — Government Code section 11346.5(a)(3)(A).

Existing law requires the Commission to reduce the inefficient consumption of energy and water by prescribing efficiency standards and other cost-effective measures for appliances that require a significant amount of energy and water to operate on a statewide basis. Such standards must be technologically feasible and attainable and must not result in any added total cost to the consumer over the designed life of the appliance.

The Appliance Efficiency Regulations (Title 20, Sections 1601-1609 of the California Code of Regulations) contain definitions, test procedures, labeling requirements, and efficiency standards for state- and federally regulated appliances. Appliance manufacturers are required to certify to the Commission that their products

meet all applicable state and federal regulations pertaining to efficiency before their products can be included in the Commission's database of approved appliances to be sold or offered for sale within California.

The regulatory text approved by the Office of Administrative Law on August 22, 2017, is the existing law as referenced in this document. The proposed regulations for computers are shown in underline and strikeout with respect to the regulatory text approved by the Office of Administrative Law on August 22, 2017.

COMPUTERS

Existing law regulates the idle-mode energy consumption of most types of computers, including desktops, notebooks, workstations, and small-scale servers. The base level of energy consumption for desktops is determined based on an "expandability score" that identifies the requisite power needs of the desktop based on the included features and functionalities. The base level for notebooks is set at a flat rate. The regulations then provide for "adders" that allow manufacturers to consume energy above the base level if they contain certain additional features and functionalities in their products. Workstations and small-scale servers do not have base levels and adders, but are instead required to include certain energy efficient features to ensure that energy consumption remains low.

The proposed regulations would modify existing law by modifying the definition of discrete GPU to allow inclusion of a discrete GPU that is packaged on the same substrate as the CPU. This technology is a new innovation that was not available to be considered at the time of the original appliance efficiency rulemaking. Furthermore, the Commission proposes to address energy consumption limits for this new product through this rulemaking.

The proposed regulations would further modify existing law by clarifying the definitions related to computers to improve clarity about product coverage and scope. These proposed changes include modifications to the definition for mobile workstations to allow manufacturers to sell computers that support the specified discrete GPUs but are not shipped with one to consumers in California. The proposed regulations also increase the minimum battery size to qualify as a mobile gaming system to ensure that computers that were intended to be covered in the original rulemaking are included in its scope.

Lastly, the proposed regulations would modify the data submittal requirements to collect information that is needed with respect to the proposed changes for the

discrete GPU and to add data submittal requirements that were omitted in the original regulations.

LED LAMPS

Existing law necessitates manufacturers complete all required testing before certifying to the Commission that their product meets the appliance efficiency regulations. Existing law regulates the minimum lifetime of state-regulated LED lamps and the LED versions of state-regulated SDDLs and requires reporting of lamp lifetime to the Commission as determined by test procedures specified in the regulations. The test procedures specified in the regulations are aligned with the U.S. Department of Energy’s (DOE) test procedures. Under the applicable federal test procedure, this correlates to a five-month test for state-regulated LED lamps and a seven-month test for SDDLs to determine lifetime, compared to a couple of weeks to test other aspects of the lamp. DOE allows manufacturers to report estimated lifetime pending completion of lifetime testing. Manufacturers are required to document their process for determining the estimated lifetime, to maintain relevant records, and to report final lifetime to DOE upon completion of the test procedure.

The proposed regulations would modify the existing law to allow manufacturers to report estimated lifetime to the Commission pending completion of lifetime testing. This proposal would align the California Code of Regulations with the Code of Federal Regulations with respect to reporting of lifetime. The proposal would require reporting of final lifetime to the Commission upon completion of the test procedure.

Difference from existing comparable federal regulation or statute — Government Code section 11346.5(a)(3)(B).

COMPUTERS

The Commission has determined that there are no existing, comparable federal regulations or statutes that address the energy efficiency standards, testing, certification, or marking requirements in California Code of Regulations, title 20, sections 1601–1609, for computers.

LED LAMPS

The Commission has determined that there are no existing, comparable federal regulations or statutes that address the energy efficiency standards or marking requirements in California Code of Regulations, title 20, sections 1601–1603, 1605.1–1605.3, and 1607–1609,

for LED lamps. The testing requirements in California Code of Regulations, title 20, section 1604 have no differences from the comparable federal regulations. The proposed regulations will align reporting requirements in California Code of Regulations, title 20, section 1606 with the comparable federal regulations.

Policy statement overview regarding broad objectives of the regulations and the specific benefits anticipated by the proposed amendments — Government Code section 11346.5(a)(3)(C).

COMPUTERS

The broad objective of this rulemaking is to make minor modifications to the appliance efficiency regulations for computers that will maintain the expected energy savings from the original rulemaking while addressing new technologies and innovations that were not known at the time of that rulemaking. The proposed changes would ensure that the mandatory regulations do not interfere with new innovations in an industry that is constantly evolving and innovating its products.

The specific benefits of the new adder in the proposed regulations are to ensure that new, innovative products are eligible for sale in California and to ensure that these new, innovative products continue to use only the amount of energy that is necessary, ensuring that consumers continue to reap the savings expected from the original appliance efficiency regulations.

The specific benefits of the modifications to the definitions in the proposed regulations are to ensure that manufacturers have clarity about which of their products are subject to which standards, ensuring that the expected energy savings from the standards materialize as manufacturers are able to comply. No additional non-monetary benefits are applicable.

LED LAMPS

The broad objective of this rulemaking is to align Commission reporting requirements with the DOE’s reporting requirements. This alignment will allow manufacturers of state-regulated LED lamps and the LED versions of state-regulated SDDLs to report estimated lifetime pending completion of lifetime testing. Under the applicable federal test procedure, it is a five-month test for state-regulated LED lamps and a seven-month test for SDDLs to determine lifetime, compared to a couple of weeks to test other aspects of the lamp. The proposed regulations increase the flexibility of businesses to manufacture and sell products that comply with the regulations, but do not eliminate the need for lifetime testing. The proposed regulations do not change the underlying costs or energy savings expected from the regulations.

The specific benefits of the proposed regulations are to enable manufacturers to introduce new LED lamps into the California market five to seven months earlier than would be permitted under the existing regulations. The proposed regulations will benefit California businesses and residents by allowing them to purchase a manufacturer’s newest LED lamps while maintaining the energy savings expected from the original efficiency regulations. No additional non–monetary benefits are applicable.

Inconsistency or incompatibility with existing state regulations — Government Code section 11346.5(a)(3)(D).

The proposed regulations are not inconsistent or incompatible with existing state regulations. There are no other state regulations that address the efficiency standards, testing, marking, or certification requirements in California Code of Regulations, title 20, sections 1601–1609, for computers or LED lamps.

DOCUMENTS INCORPORATED
BY REFERENCE

1 California Code of Regulations Section 20(c)(3)

The Commission proposes to incorporate the document listed below by reference. Pursuant to California Code of Regulations, title 1, section 20, this document is available for review at the Commission at 1516 Ninth Street, Sacramento, California 95814 starting September 22, 2017, weekdays from 9:00 a.m. to 5:00 p.m. The document is also available for download from the Commission’s docket for this proceeding and is available for free from the U.S. Government Publishing Office. Because the document is available for viewing at the Commission and may be obtained for free, the Commission concludes this document is reasonably available to the affected public in conformance with California Code of Regulations, title 1, section 20(c).

Uniform Test Method for Measuring the Input Power, Lumen Output, Lamp Efficacy, Correlated Color Temperature (CCT), Color Rendering Index (CRI), Power Factor, Time to Failure, and Standby Mode Power of Integrated Light–Emitting Diode (LED) Lamps, 10 C.F.R. section 430.23(ee) (Appendix BB to subpart B of part 430, (Jan. 1, 2017)).

LOCAL MANDATE DETERMINATION
Government Code Section 11346.5(a)(5)

The proposed regulations will not impose a mandate on local agencies or school districts.

FISCAL IMPACTS

Government Code Section 11346.5(a)(6)

Cost or Savings to Any State Agencies. No public agency would necessarily incur costs or savings in reasonable compliance with these regulations. No costs or savings are expected as a result of these minor modifications in the regulations, as they would not change the expected products that would comply with the standards, and would not increase or decrease any expected enforcement of the standards.

Cost to Local Agencies or School Districts Requiring Reimbursement. The proposed regulations will not impose on local agencies or school districts any costs for which Government Code sections 17500–17630 require reimbursement.

Other Nondiscretionary Cost or Savings Imposed Upon Local Agencies. The proposed regulations will not result in any other nondiscretionary cost or savings to local agencies.

Cost or Savings in Federal Funding to the State. The proposed regulations will not result in any cost or savings in federal funding to the state.

HOUSING COSTS

Government Code Section 11346.5(a)(12)

The proposed regulations would not have a significant effect on housing costs.

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

Government Code Sections 11346.3(a),
11346.5(a)(7), and 11346.5(a)(8)

The Commission has determined that the proposed regulations for computers will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations only provide additional clarity to the definitions and an adder for a new technology so that it can be included in computers that are sold or offered for sale in the state, ensuring that businesses in the state can purchase the same types of computers available out of state, with less energy consumption.

The Commission has determined that the proposed regulations for state–regulated LED lamps and the LED versions of state–regulated SDDLs will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the only change in the proposed regulations al-

lows manufacturers to report estimated lifetime pending completion of lifetime testing, ensuring that California businesses can purchase a manufacturer's newest LED lamps while maintaining the energy savings expected from the original efficiency regulations.

STATEMENT OF THE RESULTS OF THE
ECONOMIC IMPACT ASSESSMENT
Government Code Section 11346.5(a)(10)

The Commission concludes the following: No new jobs will be created and no existing jobs will be eliminated by the proposed regulations.

No new businesses will be created and no existing businesses will be eliminated by the proposed regulations.

The proposed regulations will not result in the expansion of any businesses currently doing business in the state.

And, the proposed regulations for computers will benefit California residents by allowing them to purchase computers with new and innovative features while maintaining the energy savings expected from the original computer efficiency standards. The proposed regulations for state-regulated LED lamps and the LED versions of state-regulated SDDLs will benefit California businesses and residents by allowing them to purchase a manufacturer's newest LED lamps while maintaining the energy savings expected from the original efficiency regulations.

Accordingly, the Commission has determined that the proposed regulatory action will not have a significant impact on business.

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

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

BUSINESS REPORT
Government Code Sections 11346.5(a)(11)
and 11346.3(d)

The proposed regulations do not impose any new reporting requirements.

SMALL BUSINESS IMPACTS

1 California Code of Regulations Section 4(a) and (b)

For purposes of this analysis, the Commission used the consolidated definition of small business contained in Government Code section 11346.3(b)(4)(B). The Commission has determined that the proposed regulations will affect small business. These regulations would affect businesses, including those independently owned and operated and not dominant in their field of operation, involved in manufacturing computers, state-regulated LED lamps, or the LED versions of state-regulated SDDLs, as well as businesses involved in retail and wholesale trade. These small businesses are legally required to comply with the regulations. Small businesses will benefit from the proposed computer regulations in being able to manufacture and sell new computer technologies as a result of the modified definitions and adder being included in the new regulation. This will expand and diversify the computer products available. Small businesses will benefit from the proposed LED lamp regulations in being able to have their newest LED lamps eligible for sale in California pending completion of lengthy lifetime testing. This will allow for earlier availability of LED lamp products and a broader product offering while maintaining the energy savings expected from the original efficiency regulations.

Because the proposed regulations do not add any costs of compliance, there are no additional costs imposed by the regulations. Because the regulations for computers are providing an adder for a technology that was not available at the time of the original rulemaking, there are no expected energy savings from the proposed regulations. Because the regulations for computers are merely clarifying definitions to ensure the original intent of the regulations, there are no energy savings expected from the clarifications. Because the proposed regulations for state-regulated LED lamps and the LED versions of state-regulated SDDLs only modify existing reporting requirements, there are no energy savings expected from the proposed regulations.

ALTERNATIVES STATEMENT
Government Code Section 11346.5(a)(13)

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

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

CONTACT PERSON

Government Code Section 11346.5(a)(14)

Inquiries concerning all aspects of the rulemaking process, including the substance of the proposed regulations, should be directed to Soheila Pasha at (916) 657-1002 or by e-mail at Soheila.Pasha@energy.ca.gov. The designated backup contact person is Patrick Saxton, who can be reached at (916) 654-4274, or by e-mail at Patrick.Saxton@energy.ca.gov.

COPIES OF THE INITIAL STATEMENT OF REASONS AND THE TEXT

Government Code Section 11346.5(a)(16)

The Commission has prepared an initial statement of reasons for the proposed regulations, has available all the information upon which this proposal is based, and has available the express terms of the proposed action. To obtain a copy of any of this information, please visit the Commission's website at: <http://www.energy.ca.gov/appliances/2017-AAER-15/rulemaking> or contact Angelica Romo-Ramos at Angelica.Romo@energy.ca.gov or (916) 654-4147.

AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY

ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS

Government Code Section 11346.5(a)(18)

Participants should be aware that any of the proposed regulations could be substantively changed as a result of public comment, staff recommendation, or recommendations from Commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the Commission considers changes to the proposed regulations pursuant to Government Code section 11346.8, a full copy of the text will be available for review at least 15 days prior to the date on which the Commission adopts or amends the resulting regulations.

COPY OF THE FINAL STATEMENT OF REASONS
Government Code Section 11346.5(a)(19)

At the conclusion of the rulemaking, persons may obtain a copy of the final statement of reasons once it has been prepared by visiting the Commission's website at: <http://www.energy.ca.gov/appliances/2017-AAER-15/rulemaking> or contacting Angelica Romo-Ramos at Angelica.Romo@energy.ca.gov or (916) 654-4147.

INTERNET ACCESS

Government Code Sections 11346.4(a)(6) and 11346.5(a)(20)

The Commission maintains a website in order to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the Commission for this rulemaking, including this Notice of Proposed Action, the Express Terms, the Initial Statement of Reasons, and the Economic and Fiscal Impact Statements have been posted at: <http://www.energy.ca.gov/appliances/2017-AAER-15/rulemaking>.

NEWS MEDIA INQUIRIES

News media inquiries should be directed to Media and Public Communications Office at (916) 654-4989, or by e-mail at mediaoffice@energy.ca.gov.

TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL

HAZARDOUS WASTE FACILITY PERMITTING CRITERIA

Department Reference Number: R-2016-03

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to adopt new or amended California Code of Regulations, Title 22, Division 4.5, Chapters 10, 14, 15, 20, and 21, sections 66260.10, 66264.16, 66264.101, 66264.143, 66264.144, 66264.145, 66264.146, 66264.147, 66264.151, 66265.16, 66265.143, 66265.144, 66265.145, 66265.146, 66265.147, 66270.14, 66271.50, 66271.51, 66271.52, 66271.53, 66271.54, 66271.55, 66271.56, 66271.57, and 66271.58.

PUBLIC HEARING

DTSC will hold one public hearing on the proposed regulation at the following time and location:

DATE: November 6, 2017
 TIME: 9:30 a.m. (PST)
 LOCATION: CalEPA Headquarters, Coastal
 Hearing Room
 1001 "I" Street
 Sacramento, California 95814

Ms. Jackie Buttle, Regulations Coordinator
 Office of Planning & Environmental Analysis
 Department of Toxic Substances Control
 P.O. Box 806
 Sacramento, CA 95812-0806
 Fax Number: (916) 255-3785

At the time and location listed above, any person(s) may present statements or arguments, orally or in writing, relevant to this proposal described in the Informative Digest. The public hearing will convene at 9:30 a.m. and will remain open until 11:30 a.m., or until no attendees present testimony, whichever occurs first.

Representatives of DTSC will preside at the hearing. DTSC requests persons who wish to speak to please register before the hearing. Pre-hearing registration is conducted at the location of the hearing from 9:00 a.m. until the hearing commences. Registered persons will be heard in the order of their registration. Anyone else wishing to speak at the hearing will have an opportunity after all registered persons have been heard.

All visitors are required to sign in prior to attending any meeting at the Visitor and Environmental Services Center located just inside and to the left of the building's public entrance. Please allow adequate time to sign in and receive a visitor badge before the public hearing begins.

NOTICE PERTAINING TO ACCESSIBILITY AND REASONABLE ACCOMMODATION

All documents related to this regulation can be made available in alternate format (*i.e.* Braille, large print, etc.) or in another language, as requested, in accordance with State and Federal law. Further, to ensure the public has equal access to all available services and information, DTSC will provide disability related reasonable accommodations and/or translator/interpreter needs, upon request. For assistance, please contact **Litiana Patino at (916) 324-3095 or Litiana.Patino@dtsc.ca.gov** as soon as possible, but no later than 10 business days prior to the scheduled hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

WRITTEN COMMENT PERIOD

Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard-copy formats.

Written comments may be submitted electronically through the DTSC regulations email address at permits_hwm@dtsc.ca.gov or please direct hard-copy written comments to:

The written comment period will close at 11:59 p.m. PST on November 6, 2017. Only comments received at the DTSC office by that date and time will be considered.

AUTHORITY AND REFERENCE

Authority

These regulations are being adopted under the following authorities:

- Health and Safety Code section 25200.21 requires DTSC to adopt regulations establishing or updating criteria for use in making permit decisions.
- Health and Safety Code section 25150 stipulates that DTSC shall adopt, and revise when appropriate, standards and regulations for the management of hazardous substances.
- Health and Safety Code section 25159.5 authorizes DTSC to adopt regulations which are more stringent or more extensive than a federal regulation.
- Health and Safety Code section 25245 authorizes and requires DTSC to adopt regulations that specify financial assurance to be provided by facility owners or operators and ensure that hazardous waste facilities can be closed and maintained for at least 30 years in a manner that is protective of public health and the environment and minimizes or eliminates the escape of hazardous constituents from the facility.
- Health and Safety Code section 58004 authorizes DTSC to take any of the actions that its predecessor agency, the Department of Health Services could take. Implicitly, this includes the authority to adopt regulations.
- Health and Safety Code section 58012 grants DTSC authority to adopt and enforce rules and regulations to execute its duties. (Added by Governor's Reorganization Plan No. 1, section 146, *eft.* July 17, 1991. See http://dtsc.ca.gov/LawsRegsPolicies/upload/OEARA_REG_GRP1.pdf)

Reference

These regulations implement, interpret, or make specific the following statutes:

- Health and Safety Code section 25200.21 authorizes and requires DTSC to adopt regulations establishing or updating criteria used for the issuance of a new or modified permit or renewal of a permit, which may include criteria for the denial or suspension of a permit.

Note: These proposed regulations also include amendments to existing regulations. There are additional existing authority and reference citations for those provisions in the existing and proposed regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Policy Statement Overview

Health and Safety Code section 25200.21 was enacted as part of Senate Bill 673 (SB 673, Stats. 2015, Chapter 611, section 1, effective January 1, 2016). Section 25200.21 authorizes and requires DTSC to adopt regulations establishing or updating criteria used for the issuance of a new or modified permit, which may include criteria for the denial or suspension of a permit. In adopting these safeguards, DTSC must consider for inclusion as criteria all of the following:

- Number and types of past violations that would result in denial;
- The vulnerability of, and existing health risks to, nearby populations, including cumulative impacts;
- Minimum setback distances from sensitive receptors (e.g. schools, hospitals, elder care facilities, etc.);
- Evidence of financial responsibility and qualifications of ownership;
- Provision of financial assurances pursuant to Health and Safety Code section 25200.1;
- Training of personnel in the safety culture and plans; and
- Completion of a health risk assessment.

DTSC's Permitting Division considers and issues decisions on applications for hazardous waste facility permits. In general, facilities that treat, store, or dispose of hazardous waste in California are required to have a hazardous waste facility permit issued by DTSC. These permits authorize the facilities' activities, while also imposing conditions on facilities' operations. Compliance with such conditions is subject to inspection and other forms of review by DTSC's enforcement program. DTSC's enforcement program conducts inspections to ensure compliance with hazardous waste management requirements.

DTSC's permitting program is the bedrock of its regulatory oversight of facilities that treat, store, or dispose of hazardous waste. The principal purpose of DTSC's permitting program is to ensure that those entities operate safely for facility personnel and nearby residents, and in a manner that protects human health and the environment. DTSC's Permitting Division imposes permit conditions to prevent and control releases of harmful substances from a facility to air, water, or soil.

Proposed regulation

Health and Safety Code section 25200.21 specifies the seven criteria that DTSC must consider for inclusion in the proposed regulations to modify the decision-making process for the issuance of hazardous waste facility permits. Five of the seven criteria are being addressed in this rulemaking package. These include permit criteria for compliance history (or the Violations Scoring Procedure), data for a community involvement profile, financial responsibility amendments, training for facility personnel amendments, and a health risk assessment for hazardous waste facility operations.

The remaining criteria: the vulnerability of and existing health risks to, nearby populations and the minimum setback distances from sensitive receptors (e.g. schools, hospitals, elder care facilities, etc.) will be addressed in a separate rulemaking package. DTSC has already initiated public outreach and engagement for the second rulemaking effort.

Anticipated Benefits

DTSC estimates the benefits from the proposed rulemaking are greater protection of facility personnel and nearby residents from the improvement of facility personnel training requirements; greater protection of public funds due to improvements in the requirements for financial assurance for liability, closure and postclosure care of facilities; greater understanding and protection of potentially vulnerable populations near hazardous waste facilities informed by a community involvement profile and health risk assessment; and greater consistency and transparency in DTSC's permit program decision-making from the newly established Violations Scoring Procedure. Collectively, these regulations are expected to afford greater protection of public health and safety and the environment in California.

Summary of Existing Statutes and Regulations

Health and Safety Code section 25200.21 authorizes and requires DTSC to adopt regulations related to its permitting program. That provision is discussed at length in the above Policy Statement Overview section of this document. The Health and Safety Code also sets out a basic framework and basic requirements for hazardous waste management in California. Those provisions are set out in the Hazardous Waste Control Law, Division 20, Chapter 6.5, Health and Safety Code. In

addition, DTSC has a very extensive and comprehensive body of regulations that govern virtually all aspects of the generation, management, treatment, storage, and disposal of hazardous waste in California. Key components of those regulations are the provisions that govern the hazardous waste facility permitting process. Those regulations are primarily found in Chapters 20 and 21 of the regulations implemented by DTSC, within Division 4.5 of Title 22, California Code of Regulations.

Relation to Existing Federal Regulations

The existing body of regulations that DTSC implements, set out in Title 22, California Code of Regulations, Division 4.5, has a federal corollary in Title 40, Code of Federal Regulations. In fact, DTSC is authorized by the United States Environmental Protection Agency (U.S. EPA) to enforce DTSC’s hazardous waste management program in lieu of the federal hazardous waste management program (The Resource Conservation and Recovery Act, “RCRA,” commencing at Title 42, United States Code, section 6901.) in California. There are no provisions in the federal regulations implementing RCRA that are analogous to the provisions being proposed by DTSC. Nonetheless, RCRA expressly allows states that implement their hazardous waste management programs in lieu of RCRA to be more stringent, broader in scope, or both. The proposed regulations will neither duplicate nor conflict with existing federal regulations.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

DTSC has evaluated whether or not the proposed regulations are inconsistent or incompatible with existing state regulations. DTSC is the only agency that regulates and governs hazardous waste management in general and the permitting of hazardous waste facilities in particular. The proposed regulations build on these existing regulations by making improvements to the requirements related to training of facility personnel, financial assurances for liability, closure, and postclosure care, and the permitting decision-making process. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Incorporated By Reference

The regulations do not include any items incorporated by reference.

DISCLOSURES REGARDING THE PROPOSED ACTION

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DTSC determined that the proposed changes to these regulations would not impose a local mandate or result

in costs subject to reimbursement pursuant to Part 7 of Division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

COST OR SAVINGS TO STATE OR LOCAL AGENCIES, OR SCHOOL DISTRICTS SUBJECT TO REIMBURSEMENT

DTSC has determined that the proposed regulations would not result in costs or savings for any state or local agency, or school district that is required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code. The proposed regulations are not anticipated to result in any other nondiscretionary costs or savings imposed on local agencies or change any federal funding to the State.

COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE

DTSC does not anticipate any changes to federal funds that the State of California receives.

DETERMINATION OF NO SIGNIFICANT STATEWIDE ECONOMIC IMPACT

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

DTSC is not aware of any cost impacts that a representative private person would necessarily incur with the proposed action. DTSC anticipates that owners and operators would incur yearly costs between \$4,000 and \$5,500 in reasonable compliance with the proposed requirements. Furthermore, when permit applications are submitted, the range of additional direct costs that a representative business would necessarily incur is between \$64,000 and \$117,500 every ten years when permits expire.

EFFECT ON SMALL BUSINESSES

DTSC has determined that the regulation would have an impact on small businesses that are owners and/or operators of hazardous waste facilities. The proposed regulations would require small business to incur additional costs associated with preparing and submitting hazardous waste facility permit applications as well as yearly costs to submit training certifications and review their Violations Scoring Procedure score. Generally speaking, the proposed regulations would not have a significant economic impact on small businesses. However, those small businesses with a pattern of violating hazardous waste laws and regulations may experience a significant economic impact.

EFFECT ON HOUSING COSTS

DTSC has determined that the proposed regulations would not have any impact on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

DTSC has conducted an economic impact assessment, as required by Government Code section 11346.3, and found that no businesses or jobs would be created, expanded, or eliminated in California as a result of the proposed regulations. The rulemaking does, however, aim to increase the safety of hazardous waste management facility operations, which helps to protect public health and safety and the environment.

CONSIDERATION OF ALTERNATIVES

Recently, prior to the rulemaking, DTSC held two public workshops. One was held in southern California, and one in northern California. Last year, DTSC held several workshops on one provision of the rulemaking — the Violations Scoring Procedure. DTSC has considered the information gleaned in those workshops and from internal discussions with DTSC staff in the drafting of these regulations.

A detailed discussion of the proposed regulations, including the Consideration of Alternatives, is presented in the Initial Statement of Reasons for these regulations — Hazardous Waste Facility Permitting Criteria.

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

OTHER APPLICABLE REQUIREMENTS
PRESCRIBED BY STATUTE

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

DTSC has found this rulemaking to be an exempt General Rule (CEQA Guidelines, section 15061(b)(3)) under the California Environmental Quality Act (Public Resources Code section 21000 et seq.). This rulemaking meets the statutory exemption available under Public Resources Code section 21080(b)(8). A draft Notice of Exemption is available for review with the rulemaking file, and will be filed with the State Clearinghouse when the regulations are adopted.

CONTACTS

Inquiries regarding technical aspects of the proposed regulation may be directed to Evelia Rodriguez at (916) 327-6104 or at evelia.rodriguez@dtsc.ca.gov. If Ms. Rodriguez is not available, contact the Regulations Coordinator, Ms. Jackie Buttle at (916) 255-3730 or regs@dtsc.ca.gov. However, such oral inquiries are not part of the official rulemaking record.

A 45-day public comment period for this rulemaking file, as described above, will commence on September 22, 2017 and close on November 6, 2017 at 11:59 p.m. PST. During this time, DTSC will accept statements, arguments, or contentions and/or supporting documents regarding this rulemaking that must be submitted in writing, or may be presented orally or in writing at the public hearing. Comments must be received by the deadline in order for them to be considered before DTSC adopts, amends, or repeals these regulations.

AVAILABILITY OF TEXT OF PROPOSED
REGULATIONS AND INITIAL STATEMENT
OF REASONS

Copies of the Notice of Proposed Action, Initial Statement of Reasons, the text of the proposed regulations, all the information upon which its proposal is based, and the express terms of the proposed regulation are posted to DTSC's Internet site at: <http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/index.cfm> or may be obtained from Jackie Buttle of DTSC's Office of Planning and Environmental Analysis, as specified below.

After the close of the comment period, DTSC may adopt the proposed regulations. If substantial changes are made, the modified full text will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulation, attend the hearing, or provide written comments on this specific regulation will be sent a copy of the modified text if substantive changes are made.

Once the regulation has been adopted, DTSC prepares a Final Statement of Reasons which includes an update of the Initial Statement of Reasons, DTSC's summaries and responses to all timely public comments, and other materials required by Government Code section 11346.9. Copies of the Final Statement of Reasons may be obtained from Jackie Buttle at the address listed below. A copy of the Final Statement of Reasons along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulation will also be posted on DTSC's Internet site at: <http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/index.cfm>.

To be included in this regulation package's mailing list and to receive updates of this rulemaking, please

visit <http://www.dtsc.ca.gov/ContactDTSC/ELists.cfm> and subscribe to the Permit Decision Criteria — SB 673 eList, or to directly subscribe, email: regs@dtsc.ca.gov.

Please direct all written comments, procedural inquiries, and requests for documents by mail, email, or fax to:

Ms. Jackie Buttle
 Regulations Coordinator
 Office of Planning and Environmental Analysis
 Department of Toxic Substances Control
 P.O. Box 806
 Sacramento, CA 95812-0806

Email address: permits_hwm@dtsc.ca.gov
 Fax number: (916) 255-3785
 Phone number: (916) 255-3730

If Ms. Buttle is unavailable, please call Ms. Evelia Rodriguez at (916) 327-6104.

TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES

ORD#1216-16

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

ITEM # 1: Photo-listing of Children Awaiting Permanency

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held November 8, 2017, as follows:

Office Building # 8
 744 P Street, Room 103
 Sacramento, California

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

Statements or arguments relating to the proposals may also be submitted in writing, e-mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on November 8, 2017.

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

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

CONTACT

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

TELEPHONE

(916) 657-2586

FACSIMILE

(916) 654-3286

E-MAIL

ord@dss.ca.gov

CHAPTERS

Manual of Policies and Procedures (MPP), Chapters 35000, 35011, 35015, 35017 and 35019

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The proposed regulations are necessary to implement one mandate of Senate Bill (SB) 1013, Chapter 20, Statutes of 2012, which amended the prior Assembly Bill (AB) 2773, Chapter 1056, Statutes of 1998, changing the term “adoption agency” to “county adoption agencies and licensed adoption agencies” regarding photo-listing of children awaiting permanency of adoption in accordance with Family Code section 8707.

The CDSS contract vendor maintains child-specific information posted on general media as a means of recruiting prospective adoptive parents when children are free for adoption or have in place a permanent plan of adoption.

These regulations are necessary to promote the best interest of children in out-of-home care by ensuring that children have permanent, safe and loving homes. These regulations comply with the provisions from noted state legislative bills.

The intent of the proposed regulations is to comply with recruitment provisions from state legislative bills and federal Public Laws to increase the number of prospective adoptive or foster families to provide permanency for children.

The anticipated benefit of these regulations is to comply with state law. Regulations raise awareness about the need for adoptive and foster families for children by means of photo-listing of children on social media and diligent recruitment.

The proposed regulations also amend the Title 22, Division 2, Chapter 3 regulations of the MPP by adopting SB 1013 and by adding the term “department.” The photo-listing service applies to all public and private adoption agencies, including the CDSS regional offices. These proposed regulations adopt new and amended language for Sections, 35015, 35017 and 35019.

The Department conducted an evaluation as to whether there are any related regulations on this matter and has found that these are the only regulations dealing with photo-listing of children awaiting permanency. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations. They are consistent with the intent of the Legislature in adopting SB 1013.

COST ESTIMATE

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

3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies and school districts. There are no “state-mandated local costs” in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code (GC) because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the GC.

**STATEMENT OF SIGNIFICANT ADVERSE
ECONOMIC IMPACT ON BUSINESS**

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. In addition, the other regulation changes will renumber and add technical language to create regulations that are easier to understand.

**STATEMENT OF POTENTIAL COST IMPACT ON
PRIVATE PERSONS OR BUSINESSES**

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

SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined that there is little to no impact on small businesses such as a result of filing these regulations. Targeted recruitment is considered part of conducting everyday business for licensed adoption agencies and foster agencies in communities where families can be found that are likely to be a resource for the children and youth in their care. These regulations have no impact on county adoption agencies as they are funded by the state.

**STATEMENT OF RESULTS OF ECONOMIC
IMPACT ASSESSMENT**

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

The benefits of the regulatory action to the health and welfare of California residents, worker safety and the state's environment are as follows: Section will provide clarity to direct foster care agencies to conduct recruitment activities for the purpose of promoting children and youth who need permanent homes.

Backup:
Sylvester Okeke
(916) 657-2586

TITLE 27. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

STATEMENT OF EFFECT ON HOUSING COSTS

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

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

CONSIDERATION OF ALTERNATIVES

The CDSS has made an initial determination that there are no other reasonable alternatives than by implementing the statutory policy or other provision of law. The CDSS shall adopt regulations to implement and interpret Family Code provisions in accordance with Public Law (PL) 103-82 and PL 104-188. In adopting regulations under the proposed action, CDSS shall strive for clarity of language that may be understood by those adoption agencies and foster agencies and public social services staff who are subject to these regulations.

AMENDMENT TO SECTION 25705 SPECIFIC REGULATORY LEVELS POSING NO SIGNIFICANT RISK:

VINYLDENE CHLORIDE

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to adopt a Proposition 65¹ No Significant Risk Level (NSRL) of 0.88 micrograms per day for vinylidene chloride, by amending Title 27, California Code of Regulations, section 25705(b)². The office is concurrently providing Notice of its intent to list vinylidene chloride as known to cause cancer for purposes of Proposition 65. In the event OEHHA does not list the chemical, this rulemaking will be withdrawn.

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

PUBLIC PROCEEDINGS

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Family Code section 8707 and Government Code section 11346.5(a)(2) is being referenced to make the regulations more specific.

Any written comments concerning this proposed action must be received by OEHHA by **5:00 p.m. on November 6, 2017**, the designated close of the written comment period. All comments received will be posted on the OEHHA website at the close of the public comment period.

We encourage you to submit comments in electronic form, rather than in paper form. Comments may be submitted electronically to P65Public.Comments@oehha.ca.gov. Please include "Vinylidene Chloride NSRL" in the subject line. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below. Hard-copy comments may be mailed, faxed, or delivered in person to the address below.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person:
Oliver Chu
(916) 657-2586

¹ The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 et seq., referred to herein as "Proposition 65" or "The Act."

² All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated.

Mailing

Address: Ms. Monet Vela
Office of Environmental Health
Hazard Assessment
P.O. Box 4010, MS-23B
Sacramento, California
95812-4010
Fax: (916) 323-2610

Street

Address: 1001 1 Street
Sacramento, California 95814

Please be aware that OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. Comments on all regulatory and other actions are routinely posted on our website. By sending us your comments you are waiving any right to privacy you may have in the information you provide. Individual commenters should advise OEHHA when submitting documents to request redaction of home address or personal telephone numbers. Names of commenters will not be redacted.

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

If a hearing is scheduled and you have special accommodation needs, please contact Monet Vela at (916) 323-2517 or monet.vela@oehha.ca.gov at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Monet Vela at monet.vela@oehha.ca.gov or by telephone at (916) 323-2517. Fran Kammerer is a back-up contact person for inquiries concerning processing of this action and is available at fran.kammerer@oehha.ca.gov or (916) 445-4693.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Proposition 65 prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual³. The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where such chemical passes or probably will pass into any source of drinking water⁴.

For carcinogens, an exemption from the warning requirement is provided by the Act when the exposure for which the person is responsible can be demonstrated to produce no significant risk or when a discharge which otherwise complies with all applicable requirements would not cause any significant amount of the discharged or released chemical to enter any source of drinking water⁵. A determination that a level of exposure poses no significant risk may be made utilizing regulations that have previously been adopted by OEHHA (Sections 25701-25721). Section 25701 describes alternative methods for making such a determination. Section 25705 sets forth the process for determining “no significant risk” levels for purposes of Proposition 65 and establishes those levels for certain listed chemicals.

Details on the basis for the proposed NSRL for vinylidene chloride are provided in the Initial Statement of Reasons for this regulatory action, which is available on request from Monet Vela and is posted on the OEHHA website at www.oehha.ca.gov.

This proposed amendment to section 25705 would add an NSRL for vinylidene chloride by amending Section 25705(b) as follows (addition in underline):

<u>Chemical</u>	<u>NSRL, in micrograms day</u>
Vinylidene chloride	<u>0.88</u>

To develop the proposed NSRL for vinylidene chloride, OEHHA relied on the National Toxicology Program (NTP) report entitled “Toxicology and Carcinogenesis Studies of Vinylidene Chloride (CAS No. 75-35-4) in F344/N Rats and B6C3F₁ Mice (Inhalation Studies)”⁶ and Volume 71 in the series of International Agency for Research on Cancer (IARC) Monographs on the Evaluation of Carcinogenic Risks to Humans,

³ Health and Safety Code section 25249.6.

⁴ Health and Safety Code section 25249.5.

⁵ Health and Safety Code sections 25249.9 and 25249.10.

⁶ National Toxicology Program (NTP, 2015). Toxicology and Carcinogenesis Studies of Vinylidene chloride (CAS No. 75-35-4) in F344/N Rats and B6C3F₁ Mice (Inhalation Studies). NTP Technical Report Series No. 582. U.S. Department of Health and Human Services, NTP, Research Triangle Park, NC.

entitled “Re-evaluation of Some Organic Chemicals, Hydrazine and Hydrogen Peroxide”⁷. These documents summarize the available data from rodent carcinogenicity studies, as well as other information relevant to the carcinogenicity of the chemical. The NSRL is based upon the results of the most sensitive scientific study deemed to be of sufficient quality⁸. The derivation of the NSRL for vinylidene chloride is discussed in more detail in the Initial Statement of Reasons for this proposed regulatory amendment.

Anticipated Benefits of the Proposed Regulation

Some businesses may not be able to afford the expense of establishing an NSRL and therefore may be exposed to litigation for a failure to warn or for a prohibited discharge of the listed chemical. By providing an NSRL, this regulatory proposal spares businesses the expense of calculating their own NSRL and may also enable them to reduce or avoid litigation costs. In addition, the NSRL does not require, but may encourage, businesses to lower the amount of the listed chemical in their product to a level that does not cause a significant exposure, thereby providing a public health benefit to Californians. This in turn may reduce exposure to vinylidene chloride and reduce resident, worker and environmental exposures to chemicals that cause cancer.

No Inconsistency or Incompatibility with Existing Regulations

After conducting an evaluation on any related regulations in this area, the Office has found that these are the only regulations dealing with Proposition 65 Maximum Allowable Dose Levels for this specific chemical. Therefore, OEHHA has determined that the proposed regulation is neither inconsistent nor incompatible with existing state regulations. The proposed regulation does not impose any mandatory requirements on businesses or state or local agencies and does not address compliance or with any other law or regulation.

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

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

⁷ International Agency for Research on Cancer (IARC, 1999). IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, Volume 71, Re-evaluation of Some Organic Chemicals, Hydrazine and Hydrogen Peroxide. IARC, World Health Organization, Lyon, France. Available from: <http://monographs.iarc.fr/ENG/Monographs/vol71/index.php>.

⁸ Section 25703(a)(4).

This regulatory proposal will not affect the creation or elimination of jobs within the State of California. Proposition 65 requires businesses with ten or more employees to provide warnings when they expose people to chemicals that are known to cause cancer. The law also prohibits the discharge of listed chemicals into sources of drinking water. Vinylidene chloride is listed under Proposition 65; therefore, businesses that manufacture, distribute or sell products with vinylidene chloride in the state must provide a warning if their product or activity exposes the public or employees to significant amounts of this chemical. The regulatory proposal does not create additional compliance requirements, but instead provides a “safe harbor” value that aids businesses in determining whether a warning is required for a given exposure.

Because the proposed NSRL provides compliance assistance to businesses subject to the Act, but does not impose any mandatory requirements on those businesses, OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Benefits of this regulation include sparing businesses the expense of calculating their own NSRL and possibly enabling them to reduce or avoid litigation costs. By providing an NSRL, it may encourage businesses to lower the amount of the listed chemical in their product to a level that does not cause a significant exposure, thereby providing a public health benefit to Californians. This in turn may reduce exposure to vinylidene chloride and reduce resident, worker and environmental exposures to chemicals that cause cancer.

PEER REVIEW

This notice and the Initial Statement of Reasons are being provided to the OEHHA Science Advisory Board’s Carcinogen Identification Committee for review and comment.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Because Proposition 65 expressly⁹ does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

Because Proposition 65 expressly¹⁰ does not apply to any State agency, OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

Because Proposition 65 expressly¹¹ does not apply to any federal agency, OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs because it provides compliance assistance to businesses subject to Proposition 65, but does not impose any mandatory requirements on those businesses.

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

Because the proposed regulatory level provides compliance assistance to businesses subject to Proposition 65, but do not impose any mandatory requirements on those businesses, OEHHA has made an initial determination that the adoption of the regulation will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

⁹ See Health and Safety Code section 25249.11(b).

¹⁰ See Health and Safety Code section 25249.11(b).

¹¹ See Health and Safety Code section 25249.11(b).

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The proposed NSRL was developed to provide compliance assistance for these businesses in determining whether a warning is required or a discharge is prohibited. The NSRL provides a level of exposure at or below which a warning is not required and a discharge is not prohibited. Use of the NSRL is not mandatory. The implementing regulations allow a business to calculate its own level and provide guidance in order to assist businesses in doing so¹². However, conducting such a process can be expensive and time consuming, and the resulting levels may not be defensible in an enforcement action. OEHHA 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 SMALL BUSINESSES

OEHHA has determined that the proposed regulation will not impose any mandatory requirements on small business. Rather, the proposed NSRL will provide compliance assistance for small businesses subject to Proposition 65 because it will help them determine whether or not an exposure for which they are responsible is subject to the warning requirement or discharge prohibition of Proposition 65.

CONSIDERATION OF ALTERNATIVES

Government Code section 11346(a)(13) requires that OEHHA must determine that no reasonable alternative considered by the OEHHA or that has otherwise been identified and brought to the attention of the OEHHA would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, all the information upon which the regulation is based and the text of the regulation. A copy of the Initial Statement of Reasons, the text of the regulation and the documents relied on to develop the proposed regulation are

¹² Title 27, Cal. Code of Regs., section 25801 et seq.

available upon request from OEHHA at the address and telephone number indicated above. These documents are also posted on OEHHA's website at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons for this regulatory action may be obtained, when it becomes available, from OEHHA at the address and telephone number indicated above, and on the OEHHA website at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653
 CONSISTENCY DETERMINATION
 REQUEST FOR
 Parks Creek Fish Passage Project
 (Tracking Number: 1653-2017-006-001-R1)
 Siskiyou County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on September 6 2017, that Shasta Valley Resource Conservation District (District) proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the construction of an engineered-roughened channel with sediment retention sills and boulder buttresses at Parks Creek to re-establish fish passage for all life stages of

salmonids. The proposed project will be carried out on Parks Creek (river mile 8), located where Interstate 5 crosses over Parks Creek, a tributary of the Shasta River, Siskiyou County, California.

On March 16, 2017, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Parks Creek Fish Passage Project (Project). On June 13, 2017, supplemental information was submitted and the NOI was deemed complete. The Regional Water Board determined that the Project, as described in the NOI and supplemental information, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID No.1A13124WNSI) for coverage under the General 401 Order on June 28, 2017.

The District is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the District will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence that the request is not complete, the District will have the opportunity to submit under Fish and Game Code section 1652.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

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

NOTICE OF INTENT TO LIST A CHEMICAL BY THE LABOR CODE MECHANISM:

VINYLLIDENE CHLORIDE

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) intends to list the chemical identified in the

table below as known to the state to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65¹). This action is being proposed pursuant to the “Labor Code” listing mechanism². OE-HHA has determined that vinylidene chloride meets the criteria for listing by this mechanism.

Chemical	CAS No.	Endpoint	References
Vinylidene chloride (1,1-Dichloroethylene)	75-35-4	Cancer	IARC (2017); Grosse <i>et al.</i> (2017)

Background on listing by the Labor Code mechanism: Health and Safety Code section 25249.8(a) incorporates California Labor Code section 6382(b)(1) into Proposition 65. The law requires that certain substances identified by the International Agency for Research on Cancer (IARC) be listed as known to cause cancer under Proposition 65. Labor Code section 6382(b)(1) refers to substances identified as human or animal carcinogens by IARC. OEHHA has adopted regulations concerning these listings in Title 27, Cal.-Code of Regs., section 25904. As the lead agency for the implementation of Proposition 65, OEHHA evaluates whether a chemical’s listing is required by Proposition 65.

OEHHA’s determination: *Vinylidene chloride* meets the requirements for listing as known to the state to cause cancer for purposes of Proposition 65.

IARC published on its website a list entitled “Agents Classified by the IARC Monographs, Volumes 1–119” (IARC, 2017). IARC concludes that *vinylidene chloride* is classified in Group 2B (“possibly carcinogenic to humans”), and that there is sufficient evidence of carcinogenicity in animals for *vinylidene chloride* (Grosse *et al.*, 2017).

Opportunity for comment: OEHHA is providing this opportunity to comment as to whether the chemical identified above meets the requirements for listing as causing cancer specified in Health and Safety Code section 25249.8(a), Labor Code section 6382(b)(1) and Title 27, Cal. Code of Regs., section 25904(b). Because this is a ministerial listing, comments should be limited to whether IARC has identified the specific chemical or substance as a known or potential human or animal carcinogen. Under this listing mechanism, OEHHA can-

not consider scientific arguments concerning the weight or quality of the evidence considered by IARC when it identified this chemical and will not respond to such comments if they are submitted (Title 27, Cal. Code of Regs., section 25904(c)).

Written comments must be received by 5:00 p.m. on Monday, November 6, 2017 to be considered. We encourage you to submit comments in electronic form, rather than in paper form. Comments may be submitted electronically to P65Public.Comments@oehha.ca.gov. Please include “Vinylidene Chloride NOIL” in the subject line. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below. Hard-copy comments may be mailed, faxed, or delivered in person to the address below.

Mailing

Address: Ms. Michelle Ramirez
Office of Environmental
Health Hazard Assessment
P.O. Box 4010, MS-12B
Sacramento, California
95812-4010

Fax: (916) 323-2265

Street

Address: 1001 I Street
Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period. Please do not include your address or phone number in your comments if you do not wish for that information to become publically available.

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

References

Grosse Y, Loomis D, Guyton KZ, El Ghissassi F, Bouvard V, Benbrahim-Tallaa L, Mattock H, and Straif K on behalf of the International Agency for Research on Cancer Monograph Working Group (2017). Some chemicals that cause tumours of the urinary tract in rodents. *The Lancet Oncology*, Volume 17. Published online June 27, 2017. Available at URL: [http://www.thelancet.com/journals/lanonc/article/PIIS1470-2045\(17\)30505-3/fulltext](http://www.thelancet.com/journals/lanonc/article/PIIS1470-2045(17)30505-3/fulltext).

IARC (2017). International Agency for Research on Cancer. World Health Organization. Agents Classified by the IARC Monographs, Volumes 1–119. Most recent list available at URL: http://monographs.iarc.fr/ENG/Classification/latest_classif.php

¹ Health and Safety Code section 25249.8(a) *et seq.*

² Health and Safety Code section 25249.8(a) and Title 27, Cal. Code of Regs., section 25904.

**RULEMAKING PETITION
DECISION**

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

**NOTICE OF DECISION ON PETITION TO
AMEND REGULATIONS**

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 3, Adult Institutions, Programs
and Parole**

PETITIONER

Inmate Johnny L. Howze, #P47981

AUTHORITY

The authority granted by Government Code (GC) Section 12838.5 vests to the California Department of Corrections and Rehabilitation (CDCR) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC Section 5054 vests with the Secretary of the CDCR the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein. PC Section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDC shall be exercised by the Secretary of the CDCR. PC Section 5058 provides that the Secretary may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON

Please direct any inquiries regarding this action to Timothy M. Lockwood, Associate Director, Regulation and Policy Management Branch, California Depart-

ment of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

Inmate Howze acknowledges the Department adopted emergency regulations to implement the provisions of Proposition 57 approved by California voters in November 2016. The official title of the regulations is "Credit Earning and Parole Consideration." He is now petitioning to amend and/or repeal the regulations currently in emergency effect. The petitioner contends the regulations are invalid and should be revised for the following reasons:

- The Department is excluding certain unspecified non-violent offenders from the parole consideration process and is abandoning its duty to what the voters intended with their support of Proposition 57;
- The regulations are "flush with elements of legal and/or constructive fraud" and raise unspecified "due process and equal protection concerns";
- The petitioner moves to have the "exclusionary language with which he has taken issue be stricken"; and
- Inmate Howze, as a "non-violent offender," has "a vested interest in seeing to it that the voters' intentions be executed with precision."

DEPARTMENT DECISION

A public hearing on the Department's regulations implementing Proposition 57 was held on September 1, 2017 from 9 a.m. to 12 p.m. at the Department of Water Resources Building Auditorium, 1416 Ninth Street, Sacramento, California 95814. The Notice of Proposed Regulations, CDCR's Notice of Change to Regulations and the accompanying Initial Statement of Reasons and regulation text implementing Proposition 57 were published for public comment on July 14, 2017. The title of the rulemaking is: "Credit Earning and Parole Consideration." Copies of these documents were sent to those on the contact list maintained by the Department for regulation changes. The Department has included a copy of the Notice of Proposed Regulations with the response to the petitioner which provides the petitioner the benefit of the explanations and reasoning for the regulations contained in the Initial Statement of Reasons. The petitioner had the opportunity to submit com-

ments during the public comment period using the contact information contained in the notice. The Department will respond to comments in the Final Statement of Reasons.

DISAPPROVAL DECISION

DECISION OF DISAPPROVAL OF REGULATORY ACTION

Printed below is the summary of an Office of Administrative Law disapproval decision. The full text of the disapproval decision is available at www.oal.ca.gov under the "Publications" tab. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225 — FAX (916) 323-6826. Please request by OAL file number.

BOARD OF REGISTERED NURSING

**State of California
Office of Administrative Law**

In re:
Board of Registered Nursing
Regulatory Action:
Title 16, California Code of Regulations
Adopt sections: 1423.1, 1423.2
Amend sections: 1418, 1424, 1426, 1430
DECISION OF DISAPPROVAL OF REGULATORY ACTION
Government Code Section 11349.3
OAL Matter Number: 2017-0724-02
OAL Matter Type: Regular (S)

SUMMARY OF REGULATORY ACTION

This rulemaking action proposes to implement Senate Bill 466 (Chapter 489, Statutes of 2015) by expanding requirements for registered nursing education programs (hereafter "nursing programs") to award students credit for military education and experience toward the education requirements for licensure as a Registered Nurse.

DECISION

The Office of Administrative Law (OAL) disapproved the proposed rulemaking action for failure to comply with the clarity and necessity standards of the Administrative Procedure Act (APA) and for failure to comply with certain procedural requirements of the APA, pursuant to Government Code sections 11349, 11349.1, and 11346.2.

CONCLUSION

For the foregoing reasons, OAL disapproved the proposed rulemaking action. Pursuant to Government Code section 11349.4(a), the Board may resubmit this action within 120 days of its receipt of this Decision of Disapproval. Prior to that, the Board shall mail a notice, together with all substantial regulatory text changes which are sufficiently related to the originally proposed text, and shall make available for at least 15 days an addendum to the Initial Statement of Reasons pursuant to Government Code sections 11347.1 and 11346.8 and Title 1 CCR section 44. OAL reserves the right to review the Board's resubmitted regulations and the rulemaking record for compliance with all substantive and procedural requirements of the APA. A copy of this Decision will be emailed to the Board on the date indicated below.

Date: September 12, 2017
Dale P. Mentink
Senior Attorney
For: Debra M. Cornez
Director
Original: Joseph Morris
Copy: Ronnie Whitaker

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# 2017-0726-03
BOARD OF FORESTRY AND FIRE PROTECTION
Rule Alignment #3, 2017

This filing of changes without regulatory effect by the Board of Forestry and Fire Protection (BOFFP) amends sections in Title 14 of the California Code of Regulations to make editorial corrections and other non-substantive changes. Those changes included capitalizing defined terms, adding the section symbol and replacing the word “section” with the symbol, updating the Department name replacing “Game” with “Wildlife”, correcting citations, and various other changes.

Title 14

AMEND: 913, 913.1, 913.2, 913.3, 913.4, 913.5, 913.6, 913.7, 913.8, 913.10, 913.11, 914, 914.1, 914.2, 914.3, 914.5, 914.6, 914.7, 914.8, 914.9, 915, 915.1, 915.2, 915.3, 915.4, 916, 916.1, 916.2, 916.3, 916.4, 916.5, 916.6, 916.7, 916.8, 916.9, 916.10, 916.11, 916.11.1, 916.12, 953.7, 953.8, 953.9, 953.12, 954.4, 1038

Filed 09/07/2017

Agency Contact: Matt Dias (916) 653-8007

File# 2017-0728-03

CALIFORNIA ENERGY COMMISSION

Update to HVI Test Method Incorporation by Reference

This change without regulatory effect filing by the California Energy Commission amends sections 1604 and 1606 of title 20 of the California Code of Regulations to update the version of the HVI Publication 916 “HVI Airflow Test Procedure” currently incorporated by reference and to make several clarifying changes to the language regarding utilization of the HVI Publication 916.

Title 20

AMEND: 1604, 1606

Filed 09/11/2017

Agency Contact: Bruce Helft (916) 654-4080

File# 2017-0728-06

CALIFORNIA GAMBLING CONTROL COMMISSION

Update of Forms

As changes without regulatory effect, the California Gambling Control Commission is amending 16 sections in title 4 of the California Code of Regulations. These sections — including documents incorporated by reference therein — are being amended to (1) update contact information for the Department of Justice, Bureau of Gambling Control (the “Bureau”); (2) update form numbers and revision dates for documents incorporated by reference; (3) delete the Bureau’s fax number from applications, as applicable; and (4) update citations and cross-references.

Title 4

AMEND: 12101, 12200, 12200.6, 12200.9, 12200.13, 12202, 12220.6, 12222, 12309, 12342, 12354, 12359, 12464, 12465, Appendix A to Chapter 7 of Division 18, 12492

Filed 09/07/2017

Agency Contact: Nina Tantraphol (916) 263-4904

File# 2017-0731-02

DEPARTMENT OF FOOD AND AGRICULTURE

Asian Citrus Psyllid Interior Quarantine

This timely certificate of compliance by the Department of Food and Agriculture makes permanent the emergency action that expanded the quarantine area for the Asian Citrus Psyllid (ACP) (*Diaphorina citri*) by adding an area of approximately 83 square miles in the Oakland area of Alameda and Contra Costa Counties and approximately 108 square miles in the Union City area of Alameda County in response to the identification of three ACP on January 17, 2017 (OAL 2017-0207-06E). This action provides permanent authority for the State to perform quarantine activities against ACP within these additional areas.

Title 3

AMEND: 3435(b)

Filed 09/12/2017

Effective 09/12/2017

Agency Contact: Rachel Avila (916) 403-6813

File# 2017-0906-03

DEPARTMENT OF FOOD AND AGRICULTURE

Asian Citrus Psyllid Interior Quarantine

This emergency action by the Department of Food and Agriculture expands the quarantine for the Asian Citrus Psyllid (ACP)(*Diaphorina citri*) near the Oakland area of Alameda County.

Title 3

AMEND: 3435(b)

Filed 09/07/2017

Effective 09/07/2017

Agency Contact: Rachel Avila (916) 403-6813

File# 2017-0727-02

DEPARTMENT OF MOTOR VEHICLES

Administrative Fees for Delinquent Notices

This action by the Department of Motor Vehicles amends two sections to increase the fees charged to parking and toll evasion processing agencies for filing notices of delinquent violations.

Title 13

AMEND: 430.00, 431.00

Filed 09/07/2017

Effective 01/01/2018

Agency Contact: Randi Calkins (916) 657-8898

File# 2017-0823-05
DEPARTMENT OF MOTOR VEHICLES
Conflict-of-Interest Code

This is a Conflict-of-Interest code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing only.

Title 13
AMEND: 1
Filed 09/11/2017
Effective 10/11/2017
Agency Contact: Randi Calkins (916) 657-8898

File# 2017-0728-05
DEPARTMENT OF PARKS AND RECREATION
Off Trail Restrictions — Reserves and Preserves

This action by the Department of Parks and Recreation adopts section 4325, in title 14 of the California Code of Regulations to restrict public use to designated trail use types and designated trails in units classified as natural preserves, cultural preserves, State cultural reserves, and State natural preserves.

Title 14
ADOPT: 4325
Filed 09/11/2017
Effective 01/01/2018
Agency Contact: Alexandra Stehl (916) 324-0322

File# 2017-0725-02
DEPARTMENT OF PUBLIC HEALTH
Prenatal (Multiple Marker) Screening Program

Pursuant to Health and Safety Code section 124977, this file and print action certifies the underlying emergency file and print regulations amending prenatal screening program fees. (See OAL Matter No. 2016-0630-03.) This action is exempt from the Administrative Procedure Act pursuant to Health and Safety Code section 124977(d)(1).

Title 17
AMEND: 6540
Filed 09/06/2017
Effective 09/06/2017
Agency Contact: Linda Cortez (916) 440-7807

File# 2017-0725-03
DEPARTMENT OF PUBLIC HEALTH
Newborn Screening Participation Fee

Pursuant to Health and Safety Code section 124977, this file and print action certifies the underlying emergency file and print regulations amending the newborn screening program fees. (See OAL Matter No. 2016-0630-02.) This action is exempt from the Ad-

ministrative Procedure Act pursuant to Health and Safety Code section 124977(d)(1).

Title 17
AMEND: 6508
Filed 09/06/2017
Effective 09/06/2017
Agency Contact: Linda Cortez (916) 440-7807

File# 2017-0803-01
DEPARTMENT OF SOCIAL SERVICES
Social Rehabilitation Facilities Regulations Revisions

In this resubmitted rulemaking action, the Department amends its Manual of Policies and Procedures to update its policies and procedures related to medical assessments, training clients to store and manage their own medication, access to cleaning supplies, storage of waste, eviction, and maintenance of client registers. It also increases the social rehabilitation facility (SRF) capacity from 15 to 16.

Title 22, MPP
AMEND: 81001, 81010, 81020, 81022, 81026, 81064.1, 81068.1, 81068.2, 81068.4, 81068.5, 81069, 81071, 81075, 81077.2, 81077.4, 81077.5, 81087, 81088, 81090, 81092, 81092.3, 81092.4, 81092.5, 81092.6, 81092.7, 81092.8, 81092.9, 81092.10, 81092.11, 81094
Filed 09/07/2017
Effective 09/07/2017
Agency Contact: Everardo Vaca (916) 657-2363

File# 2017-0727-07
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT
OSHPD — Patient Data Regulation Address Update

This action by the Office of Statewide Health Planning and Development is a change without regulatory effect pursuant to section 100 of title 1 of the California Code of Regulations (CCR). This action updates a number of forms in title 22 of the CCR.

Title 22
AMEND: 97210, 97240, 97241, 97246
Filed 09/08/2017
Agency Contact:
Kimberly Gustafson (916) 326-3939

File# 2017-0802-03
STATE WATER RESOURCES CONTROL BOARD
Drinking Water — Hexavalent Chromium Maximum Contaminant Level

This action by the State Water Resources Control Board (Board) is a change without regulatory effect made pursuant to section 100 of title 1 of the California Code of Regulations (CCR). This action effectuates the order issued in California Manufacturers and Technolo-

gy Association, et al. v. California Department of Public Health, et al. (Super. Ct. Sacramento County, 2017. No. 34–2014–80001850, requiring the Board to remove the maximum contaminant level for hexavalent chromium from title 22 of the CCR.

Title 22
 AMEND: 64431, 64432, 64447.2, 64465, 64481
 Filed 09/11/2017
 Agency Contact: Catherine Ewing (916) 440–7769

File# 2017–0802–02
SUPERINTENDENT OF PUBLIC INSTRUCTION
 EESD Confidentiality of Records

The Superintendent of Public Instruction proposed this action to amend sections 18117 and 18246 of title 5 of the California Code of Regulations, which pertain to the confidentiality of records and information of participants in the California Department of Education (CDE) Early Education and Support Division’s child care programs. The proposed amendments clarify that restrictions on disclosing confidential records and information in sections 18117 and 18246 apply only to CDE contractors, not to CDE itself.

Title 5
 AMEND: 18117, 18246
 Filed 09/12/2017
 Effective 01/01/2018
 Agency Contact: Hillary Wirick (916) 319–0644

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN April 12, 2017 TO
 September 13, 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

08/31/17 AMEND: 10000, 10001, 10002, 10005, 10007, 10008, 10009, 10010, 10011, 10015, 10017, 10021, 10022, 10025, 10026, 10030, 10031, 10033, 10035, 10038, 10039, 10041, 10042, 10044, 10046, 10049, 10050, 10051, 10053, 10054, 10057, 10063, 10065
 08/30/17 AMEND: 59590

08/16/17 AMEND: 604
 08/14/17 AMEND: 11034
 08/14/17 ADOPT: 2298.1, 2298.2, 2298.3, 2298.4, 2298.5, 2298.6, 2298.7, 2298.8, 2298.9, 2298.9.1 REPEAL: 2297.1, 2298
 08/10/17 AMEND: 1897
 07/25/17 AMEND: 57700
 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

Title 3

09/12/17 AMEND: 3435(b)
 09/07/17 AMEND: 3435(b)
 09/05/17 AMEND: 3435(b)
 09/05/17 AMEND: 3435(b)
 08/31/17 AMEND: 3439(b)
 08/30/17 AMEND: 2320.1
 08/22/17 AMEND: 3439
 08/17/17 AMEND: 3435(b)
 08/16/17 AMEND: 3435(b)
 08/16/17 AMEND: 3439(b)
 08/11/17 AMEND: 3439(b)
 08/10/17 AMEND: 3435(b)
 08/08/17 AMEND: 3854, 3855
 08/03/17 AMEND: 3435(b)
 07/31/17 AMEND: 3435(d)
 07/26/17 AMEND: 3439(b)
 07/25/17 AMEND: 3591.12, 3424(c)
 07/24/17 AMEND: 3435(b)
 07/20/17 AMEND: 3435(b)
 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

CALIFORNIA REGULATORY NOTICE REGISTER 2017, VOLUME NO. 38-Z

06/19/17 AMEND: 3435(b) 5054, 5061, 5062, 5063, 5106, 5144,
 06/14/17 AMEND: 3435(b) 5170, 5191, 5192, 5194, 5200, 5220,
 06/08/17 AMEND: 3435(b) 5230, 5240, 5250, 5255, 5258, 5260,
 06/07/17 AMEND: 3435(b) 5300, 5342, 5350, 5370, 5400, 5450,
 06/05/17 ADOPT: 3591.28 5560, 5600 REPEAL: 5221
 06/02/17 AMEND: 3435(d) 05/08/17 ADOPT: 8078.8, 8078.9, 8078.10,
 06/01/17 AMEND: 3591.12 8078.11, 8078.12, 8078.13, 8078.14
 05/30/17 AMEND: 3439(b) 05/04/17 AMEND: 10031, 10032, 10033, 10035,
 05/15/17 AMEND: 3435(b) 10036
 05/15/17 AMEND: 3435(b) 05/02/17 ADOPT: 10325.5 AMEND: 10337
 05/09/17 AMEND: 3435(b) 04/20/17 AMEND: 1581, 1843
 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)

Title 4

09/07/17 AMEND: 12101, 12200, 12200.6,
 12200.9, 12200.13, 12202, 12220.6,
 12222, 12309, 12342, 12354, 12359,
 12464, 12465, Appendix A to Chapter 7
 of Division 18, 12492
 09/05/17 AMEND: 10091.1, 10091.2, 10091.3,
 10091.4, 10091.5, 10091.6, 10091.7,
 10091.8, 10091.9, 10091.10, 10091.12,
 10091.14, 10091.15
 08/24/17 AMEND: 10170.3, 10170.4, 10170.8,
 10170.9, 10170.10, 10170.14
 08/07/17 ADOPT: 8078.22, 8078.23, 8078.24,
 8078.25, 8078.26, 8078.27, 8078.28,
 8078.29, 8078.30, 8078.31, 8078.32,
 8078.33, 8078.34, 8078.35 AMEND:
 8070, 8071, 8072, 8073, 8074, 8076,
 8078.3 REPEAL: 8078.1, 8078.2
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 07/26/17 AMEND: 1581, 1843
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 07/18/17 ADOPT: 610
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 06/20/17 AMEND: 1696
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 05/31/17 AMEND: 1632
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 08/31/17 REPEAL: 40530, 40531, 40532
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 08/22/17 AMEND: 27300, 27301, 27400, 27401,
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 08/17/17 AMEND: 19810
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06/13/17	ADOPT: 4700, 4710, 4711, 4712, 4713, 4714, 4715, 4716, 4717	06/19/17	AMEND: 205.00, 205.02, 205.04, 205.06, 205.08, 205.12, 205.14
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08/03/17	AMEND: 2498.5	04/19/17	AMEND: 26.01, 26.02
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06/21/17	AMEND: 1015	08/22/17	ADOPT: 870.17 AMEND: 870.15 REPEAL: 870.17, 870.19, 870.21
06/01/17	AMEND: 50.10	08/10/17	AMEND: 7.50
06/01/17	AMEND: 50.13	08/07/17	ADOPT: 798 AMEND: 791, 791.6, 791.7, 792, 793, 794, 795, 796, 797
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05/23/17	AMEND: 1001, 1005, 1008	08/07/17	AMEND: 819, 819.01, 819.02, 819.03, 819.04, 819.05, 819.06, 819.07
05/23/17	AMEND: 50.19	08/01/17	AMEND: 18660.5, 18660.6, 18660.21, 18660.22, 18660.23, 18660.24
05/23/17	AMEND: 50.20	07/26/17	AMEND: 895.1, 896, 897, 898, 898.1, 898.2, 900, 901, 902, 902.1, 902.2, 902.3, 903.1, 903.2, 906, 907, 911
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05/18/17	AMEND: 50.12	07/19/17	AMEND: 708.5
05/18/17	AMEND: 50.14	07/18/17	ADOPT: 17403.3.1 AMEND: 17402, 17403.0, 17405.0
05/16/17	AMEND: 50.8	07/17/17	AMEND: 360, 361, 362, 363, 364, 364.1
05/16/17	AMEND: 50.15	07/13/17	AMEND: 13055
05/16/17	AMEND: 50.21	07/12/17	AMEND: 670.2
05/16/17	REPEAL: 50.22	06/02/17	ADOPT: 1090.28, 1094, 1094.1, 1094.2, 1094.3, 1094.4, 1094.5, 1094.6, 1094.7, 1094.8, 1094.9, 1094.10, 1094.11, 1094.12, 1094.13, 1094.14, 1094.15,
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		07/17/17	AMEND: 360, 361, 362, 363, 364, 364.1
		07/13/17	AMEND: 13055
		07/12/17	AMEND: 3000, 3753, 3754, 3763, 6766, 3769.6
		06/28/17	ADOPT: 1712.4, 1714.4, 1730.4, 1740.4 AMEND: 1700, 1706, 1731, 1747, 1747.1, 1748, 1748.5, 1749, 1749.1, 1750, 1750.1, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792
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		05/11/17	ADOPT: 3999.23
		04/17/17	AMEND: 3000, 3030, 3190, 3269
		04/13/17	ADOPT: 2449.1, 2449.2, 2449.3, 2449.4, 2449.5, 3043.1, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3490, 3491, 3492, 3493 AMEND: 3043, 3043.5 (renumbered to 3043.7), 3043.6 (renumbered to 3043.8), 3044 REPEAL: 3042, 3043.1, 3043.2, 3043.3, 3043.4, 3043.7
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		08/02/17	AMEND: 4161, 4162, 4163
		07/06/17	AMEND: 1398.3, 1398.4, 1398.6, 1398.15, 1398.20, 1398.21, 1398.21.1, 1398.23, 1398.28, 1398.37, 1398.44, 1398.47, 1398.50, 1398.51, 1398.52, 1399, 1399.23, 1399.90, 1399.91, 1399.92, 1399.93, 1399.94, 1399.95, 1399.96, 1399.97, 1399.98, 1399.99 REPEAL: 1398.24, 1398.27, 1398.42
		06/23/17	AMEND: 2649
		06/22/17	AMEND: 80.1, 80.2, 87, 87.1
		06/12/17	AMEND: 1399.546
		06/08/17	ADOPT: 1746.5
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