EDMUND G. BROWN, JR., GOVERNOR

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PROPOSED ACTION ON REGULATIONS

GENERAL PUBLIC INTEREST

(Continued on next page)

Time-Dated Material

DECISION NOT TO PROCEED

SUMMARY OF REGULATORY ACTIONS

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT−OF−INTEREST CODE

AMENDMENT

MULTI−COUNTY: Beaumont−Cherry Valley Water District

A written comment period has been established commencing on September 28, 2018, and closing on November 12, 2018. Written comments should be directed to the Fair Political Practices Commission, Attention Brianne Kilbane, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

The Executive Director of the Commission, upon her or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re−submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict−of−interest code(s). Any written comments must be received no later than November 12, 2018. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict−of−interest code(s) should be made to Brianne Kilbane, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322−5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

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

spective agency. Requests for copies from the Commission should be made to Brianne Kilbane, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322−5660.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

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

Public Comments Due by November 13, 2018.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227−4011 or by letter to:

Commission on POST
Attn: David Cheng
860 Stillwater Road, Suite 100
West Sacramento, CA 95605−1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code §13503 (authority of Commission on POST) and Penal Code §13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code §13503(e) which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In the spring of 2017, an internet survey and a series of workshops involving stakeholders was conducted to identify concerns with the POST course certification process. The survey and subsequent workshops examined the course certification process in depth and found it to be unnecessarily detailed and rigid. It was determined that changes to the process would:

— reduce the amount of time it took to certify a course

— expand the types of certified professional training available to California law enforcement

— provide flexibility to deliver adult centered learning

— clarify presenters' responsibilities for student and instructor safety

In June of 2017, the Commission approved POST to conduct a 1−year Course Certification Pilot. The pilot incorporated recommended changes into the certification process and allowed volunteer participants to certify courses with the new process. After receiving certification of a course in the pilot program, the presenter completed a survey designed to measure "customer satisfaction" with the recommended changes. The survey results uniformly reflected a positive experience with the pilot. Participants experienced a significant reduction in the amount of time and work required to certify a course and the ability to certify courses previously excluded from certification. They expressed satisfaction with the reduced criteria for the hourly distribution schedules and the new certification types, Certification I and Certification II. Certification II provided the opportunity to use learning objectives and minimum topics in the expanded course outlines (ECO) instead of the traditional ECO to the third level of detail. The use of learning objectives and the reduced hourly criteria caused participants to comment on the flexibility this would provide them to focus on adult centered learning in the classroom.

In addition to the above−mentioned changes, a safety attestation was developed to clarify presenters' responsibilities regarding student and instructor safety in courses that require manipulative skills. The attestation is to be submitted in addition to a safety policy as part of the course certification process.

The proposed amendments to Regulation 1052 reflect the Course Certification Pilot Program process becoming the standardized course certification method for every course except the basic course.

The specific benefits anticipated by the proposed amendments to the regulations will be shorter course certification times, certified professional training credit available for courses previously excluded, a tailored approach to learning in the classroom, clarified presenter responsibilities for instructor and student safety, and the continued delivery of a high standard of training. These benefits will contribute to the increased effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

During the process of developing these regulations and amendments, POST has conducted a search of any similar regulations on this topic and has concluded that

these regulations are neither inconsistent nor incompatible with existing state regulations.

ADOPTION OF PROPOSED REGULATIONS

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

ESTIMATE OF ECONOMIC IMPACT

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

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

Local Mandate: None.

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

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

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

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

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

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

The proposed amendments of the regulations will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California. Additionally, the proposed amendments make the regulations compliant with Penal Code § 13515.29 and § 13515.295. There would be no impact that would affect worker safety or the state's environment.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

Questions regarding this proposed regulatory action may be directed to Janna Munk or David Cheng, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605−1630, by phone at (916) 227−4829 or (916) 227−4855. General questions regarding the regulatory process may be directed to Heidi Hernandez at (916) 227−2802.

TEXT OF PROPOSAL

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

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

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

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

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

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED REVISIONS TO ON−BOARD DIAGNOSTIC SYSTEM REQUIREMENTS, INCLUDING THE INTRODUCTION OF REAL EMISSIONS ASSESSMENT LOGGING (REAL), FOR HEAVY−DUTY ENGINES, PASSENGER CARS, LIGHT−DUTY TRUCKS, AND MEDIUM−DUTY VEHICLES AND ENGINES

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider approving for adoption the proposed amendments to California's Heavy Duty Engine On−Board Diagnostic System Requirements (HD OBD) and On−Board Diagnostic System Requirements for Passenger Cars, Light−Duty Trucks, and Medium−Duty Vehicles and Engines (OBD II).

DATE: November 15, 2018

TIME: 9:00 a.m.

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

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., November 15, 2018, and may continue at 8:30 a.m., on November 16, 2018. Please consult the agenda for the hearing, which will be available at least ten days before November 15, 2018, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on September 28, 2018. Written comments not physically submitted at the hearing must be submitted on or after September 28, 2018, and received **no later than 5:00 p.m. on November 13, 2018.** CARB requests that when possible, written and email statements be filed at least 10 days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

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

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

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

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

AUTHORITY AND REFERENCE

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 38501, 38505, 38510, 39010, 39500, 39600, 39601, 39602.5, 40000, 43000.5, 43013, 43016, 43018, 43100, 43101, 43104, 43105, 43105.5, 43106, 43154, 43211, and 43212; and *Engine Manufacturers Association v. California Air Resources Board* (2014) 231 Cal.App.4th 1022. This action is proposed to implement, interpret

and make specific sections 38501, 38505, 38510, 39002, 39003, 39010, 39018, 39021.5, 39024, 39024.5, 39027, 39027.3, 39028, 39029, 39031, 39032, 39032.5, 39033, 39035, 39037.05, 39037.5, 39038, 39039, 39040, 39042, 39042.5, 39046, 39047, 39053, 39054, 39058, 39059, 39060, 39515, 39600, 39601, 39602.5, 43000, 43000.5, 43004, 43006, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43105.5, 43106, 43150, 43151, 43152, 43153, 43154, 43155, 43156, 43204, 43211, and 43212 of the Health and Safety Code.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW
(GOV. CODE, § 11346.5, subd. (a)(3))

Sections Affected: Proposed amendments to California Code of Regulations (Cal. Code Regs.), title 13, sections 1968.2, 1971.1, and 1971.5.

Documents Incorporated by Reference (Cal. Code Regs., tit. 1, § 20, subd. (c)(3))

The following documents and models would be incorporated in the regulation by reference as specified by section:

- EMFAC2014, section 1971.5(b)(3)(A)(iv)
- 40 Code of Federal Regulations (CFR) 86.004−28(i), August 21, 2018; section 1971.1(d)(6)
- 40 CFR 1065.680, August 21, 2018; section 1971.1(d)(6)
- International Organization for Standardization (ISO) 2575 "Road vehicles — Symbols for controls, indicators and tell−tales," July, 2010; section 1971.1(h)(1.12)
- SAE International (SAE) J1699−3 — "Vehicle OBD II Compliance Test Cases," July, 2017; section 1971.1(h)(1.9)
- SAE J1930 "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms — Equivalent to ISO/TR 15031−2," March, 2017; section 1971.1(h)(1.1)
- SAE J1930−DA "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms Web Tool Spreadsheet," March, 2017; section 1971.1(h)(1.1.1)
- SAE J1939 "Serial Control and Communications Heavy Duty Vehicle Network — Top Level Document," August, 2013; section 1971.1(h)(1.7.1)
- SAE J1939−DA "J1939 Digital Annex of Serial Control and Communication Heavy Duty Vehicle Network Data," February, 2018; section 1971.1(h)(1.7.1)(A)
- SAE J1939−1 "On−Highway Equipment Control and Communication Network," November, 2012; section 1971.1(h)(1.7.2)
- SAE J1939−11 "Physical Layer, 250 Kbps, Twisted Shielded Pair," December, 2016; section 1971.1(h)(1.7.3)
- SAE J1939−13 "Off−Board Diagnostic Connector," October, 2016; section 1971.1(h)(1.7.4)
- SAE J1939−15 "Physical Layer, 250 Kbps, Un−Shielded Twisted Pair (UTP)," August, 2015; section 1971.1(h)(1.7.5)
- SAE J1939−21 "Data Link Layer," March, 2016; section 1971.1(h)(1.7.6)
- SAE J1939−31 "Network Layer," April, 2014; section 1971.1(h)(1.7.7)
- SAE J1939−71 "Vehicle Application Layer," October, 2016; section 1971.1(h)(1.7.8)
- SAE J1939−73 "Application Layer — Diagnostics," May, 2017; section 1971.1(h)(1.7.9)
- SAE J1939−81 "Network Management," March, 2017; section 1971.1(h)(1.7.10)
- SAE J1939−84 "OBD Communications Compliance Test Cases for Heavy Duty Components and Vehicles," October, 2017; section 1971.1(h)(1.7.11)
- SAE J1962 "Diagnostic Connector," July, 2016; section 1971.1(h)(1.2)
- SAE J1979 "E/E Diagnostic Test Modes," February, 2017; section 1971.1(h)(1.4)
- SAE J1979−DA "Digital Annex of E/E Diagnostic Test Modes," February, 2017; section 1971.1(h)(1.4.1)
- SAE J2012 "Diagnostic Trouble Code Definitions," December, 2016; section 1971.1(h)(1.5)
- SAE J2012−DA "Digital Annex of Diagnostic Trouble Code Definitions and Failure Type Byte Definitions," December, 2016; section 1971.1(h)(1.5.1)
- SAE J2403 "Medium/Heavy−Duty E/E Systems Diagnosis Nomenclature," February, 2014; section 1971.1(h)(1.8)
- SAE J3162 "In−Use Monitor Performance Ratio (IUMPR) Data Collection Tool Process," June, 2018; section 1971.1(h)(1.11)
- Data Record Reporting Procedures for Over−the−Air Reprogrammed Vehicles and Engines, August 16, 2018; sections 1971.1(h)(6) and 1968.2(g)(8)

Background and Effect of the Proposed Regulatory Action:

On−Board Diagnostic (OBD) systems serve an important role in helping to ensure that engines and vehicles maintain low emissions throughout their full lives. OBD systems monitor virtually all emission controls on engines and vehicles, including catalysts, particulate matter (PM) filters, exhaust gas recirculation systems, oxygen sensors, evaporative systems, fuel systems, and electronic powertrain components, and other components and systems that can affect emissions when malfunctioning. The systems also provide specific diagnostic information in a standardized format through a standardized serial data link on−board the vehicles. The use and operation of OBD systems ensure reductions of in−use motor vehicle and motor vehicle engine emissions through improvements in emission system durability and performance.

The Board originally adopted comprehensive OBD regulations in 1990, requiring all 1996 and newer model year passenger cars, light−duty trucks, and medium−duty vehicles and engines to have OBD II systems. The Board subsequently updated the OBD requirements in 2002 with the adoption of California Code of Regulations, title 13, sections 1968.2 and 1968.5, which established OBD II requirements (CCR, title 13, §1968.2) and enforcement requirements (Cal. Code Regs., title 13, §1968.5) for 2004 and subsequent model year vehicles. The Board has modified the OBD II regulation in several updates since initial adoption to address manufacturers' implementation concerns and, where needed, to strengthen specific monitoring requirements. In 2005, CARB adopted Cal. Code Regs., title 13, section 1971.1, which established comprehensive OBD requirements for 2010 and subsequent model year heavy−duty engines and vehicles (i.e., vehicles with a gross vehicle weight rating greater than 14,000 pounds), referred to as HD OBD. The Board subsequently updated the HD OBD regulation in 2009 and adopted HD OBD−specific enforcement requirements (Cal. Code Regs., title 13, §1971.5). The Board last adopted updates to the OBD II requirements in 2015 and to the HD OBD regulation in 2012 to address several concerns and issues regarding the regulations.

Since then, CARB staff has identified a number of proposed amendments to the HD OBD regulations that it believes are warranted. Some of the proposed amendments address manufacturers' implementation concerns and provide clarification on existing requirements. Staff is also proposing amendments that it believes are needed to ensure the integrity of the HD OBD systems and to provide valuable information for other CARB programs through the adoption of Real Emissions Assessment Logging (REAL). The proposed amendments to the HD OBD regulation include:

- Clarifying the requirements for intrusive diagnostics
- Revising the in−use monitor performance ratio (IUMPR) requirements, including increasing the minimum required ratio, adding monitors required to track and report the in−use monitor performance ratio data, and revising the requirements to address plug−in hybrid electric vehicles
- Revising the criteria manufacturers must meet to be exempt from monitoring the feedgas generation performance of the non−methane hydrocarbon (NMHC) catalyst and catalyzed particular matter (PM) filter
- Revising the gasoline and diesel crankcase ventilation system monitoring requirements
- Specifying more detailed monitoring requirements for hybrid vehicles
- Updating the SAE International (SAE) and International Organization for Standardization (ISO) document references
- Revising the readiness status requirements for exhaust gas/oxygen sensors and sensor heaters
- Adding data collection requirements as part of over−the−air reprogramming events
- Adding data stream parameters required to be reported to assist with CARB programs (e.g., REAL)
- Revising the certification demonstration testing requirements to revise the test engine aging requirements, clarify the allowable test sequence procedure, and add more data to be collected during testing
- Adding items required to be submitted as part of the certification application
- Revising the fines applicable to deficiencies
- Revising the production engine/vehicle evaluation testing requirements to require permanent fault code erasure testing and to collect more data from in−use engines/vehicles

Staff is also proposing similar amendments to the OBD II regulation section 1968.2, where necessary, for medium−duty diesel engines and vehicles to harmonize the requirements of the two regulations. Additionally, while staff was not planning to do an update to the OBD II regulation this year that would affect light−duty vehicles, staff has determined based on comments from manufacturers that a few additional regulation changes are needed immediately in order to ensure manufacturers are able to certify near future vehicles that comply with the OBD II regulation. Staff has also found an issue

related to the definition of "active off−cycle credit technology" in the OBD II regulation and is proposing an amendment to address this.

Staff is also proposing amendments to the HD OBD enforcement regulation (section 1971.5) to align with some of the proposed changes to the HD OBD regulation, correct some oversights and errors, and address manufacturers' workload issues. These include changes to the nonconforming criteria to account for the proposed revised in-use monitor performance ratios, relaxations to the mandatory recall interim thresholds for alternate−fueled engines, and relaxations to the manufacturer self−testing requirements.

CARB may also consider other changes to the sections affected, as listed above, during the course of this rulemaking process.

Objectives and Benefits of the Proposed Regulatory Action:

The proposed HD OBD and OBD II amendments will provide manufacturers with greater compliance flexibility, and strengthen and clarify the performance requirements they are expected to meet in designing and developing robust OBD systems. This will encourage manufacturers to design and build more durable engines and emission-related components, all of which will help ensure that forecasted emission reduction benefits from adopted light−, medium−, and heavy−duty vehicle and engine emission control programs are achieved in−use. The implementation of REAL through added nitrogen oxide and greenhouse gas emission tracking requirements will allow CARB to characterize emissions performance in−use, providing information that will allow for better modeling and technology performance evaluation to inform future program adjustments. Ultimately, the proposed action will further the goal of CARB which is to promote and protect public health, welfare and ecological resources through the effective and efficient reduction of air pollutants, and provide safe, clean air to Californians. No quantifiable benefit to worker safety is expected.

CARB developed the proposed regulatory actions through an extensive public process. The HD OBD regulatory update process began in 2016, when CARB staff started having meetings with stakeholders (mainly engine manufacturers) to discuss the development of proposed amendments for the HD OBD regulations. CARB held a public workshop in El Monte on November 2, 2017 to discuss the proposal and to seek comments. The workshop notice and workshop presentation were posted on the OBD Program website prior to the workshop, and interested stakeholders participated in the workshop in person or via webinar. Additionally, draft regulatory language was sent to members of the Truck and Engine Manufacturers Association (EMA), which represents the main stakeholders affected by the proposed rulemaking. CARB staff also presented and sought comments regarding elements of the upcoming proposed amendments to the HD OBD regulations during several SAE OBD symposiums, including symposiums held in March, 2016 (Stuttgart, Germany); September, 2016 (Indianapolis, Indiana); March, 2017 (Turin, Italy); September, 2017 (Anaheim, California); and March, 2018 (Barcelona, Spain). These symposiums were attended by vehicle and engine manufacturers, scan tool manufacturers, and individuals involved in various other aspects of the automotive industry. Throughout the rulemaking process, CARB staff held 17 meetings, including 1 in−person meeting with EMA held in El Monte, California, as well as numerous meetings and correspondences (comprising of teleconferences, in−person meetings, and e−mail correspondences) with individual manufacturers. CARB staff also participated in numerous teleconferences with SAE committee members to help develop the specifications related to the proposed new data stream parameter and tracking requirements in the SAE standards. The proposal was developed in close collaboration with these stakeholders. As a result of the comments received throughout the regulatory process, staff made significant changes to the proposed amendments to the HD OBD regulations, which are reflected in the final proposal.

Comparable Federal Regulations:

CARB initially adopted the HD OBD regulation in 2005. A waiver for the regulation was granted by U.S. EPA in 2008.[1] CARB amended the regulation in 2010, and was granted another waiver action by U.S. EPA in 2012.[2] On November 7, 2016, the U.S. EPA formally granted California's request for a waiver regarding the HD OBD regulation, as last amended on June 26, 2013,[3] recognizing that the HD OBD regulation is at least as stringent in protecting public health and welfare as the federal regulation, and that unique circumstances exist in California necessitating the need for the State's own motor vehicle regulations program.

The U.S. EPA has also adopted OBD requirements for vehicles and engines above 14,000 pounds, which is

[1] *California State Motor Vehicle Pollution Control Standards; Notice of Waiver of Clean Air Act Preemption; California's 2010 Model Year Heavy−Duty Vehicle and Engine On−Board Diagnostic Standards,* 73 Fed. Reg. 52042 (September 8, 2008).

[2] *California State Motor Vehicle Pollution Control Standards; Notice of Waiver of Clean Air Act Preemption; California's 2010 Model Year Heavy−Duty Vehicle and Engine On−Board Diagnostic Standards,* 77 Fed. Reg. 73459 (December 10, 2012).

[3] *California State Motor Vehicle Pollution Control Standards; Malfunction and Diagnostic System Requirements for 2010 and Subsequent Model Year Heavy−Duty Engines; Notice of Decision,* 81 Fed. Reg. 78149 (November 7, 2016).

the weight range for California's "heavy−duty" class. The federal regulation (40 CFR 86.010−18) was published on February 24, 2009, and subsequently amended on September 15, 2011 and June 17, 2013.

The federal regulation is consistent with CARB's California regulation in the most important aspects. However, the California HD OBD regulation in general still establishes more comprehensive and stringent requirements than the federal OBD regulation. For example, the HD OBD regulation generally requires California OBD systems on diesel engines to detect malfunctions before emissions exceed more stringent thresholds than those required by the federal HD OBD regulation. Further, the federal regulation does not require the OBD system to detect diesel oxidation catalyst malfunctions before a specific emission threshold is exceeded like the California OBD regulations — it is only required to detect a failure if the catalyst completely lacks NMHC conversion capability. As another example, under the federal HD OBD regulation, the malfunction thresholds for the emission threshold monitors are not required to be adjusted to account for emissions due to infrequent regeneration events.

The proposed 2018 amendments would continue California's efforts to require more comprehensive and robust monitoring of emission related systems and components than required by federal OBD regulations. The amendments also incorporate some new requirements (e.g., incorporation of REAL for new data parameters required to be tracked by the engine) that would assist other California mobile source emissions programs. Although differences would exist between the state and federal requirements, heavy−duty OBD systems can be designed to comply with both the federal and California programs. In fact, U.S. EPA's regulation directly allows acceptance of systems that have been certified to California's HD OBD regulation and to date, all heavy−duty engine manufacturers have chosen this path for certification.

Concerning the OBD II regulation, in 2014, the U.S. EPA adopted Tier 3 regulations that include provisions that generally align federal OBD requirements for 2017 and subsequent model year light duty vehicles, light−duty trucks, medium−duty passenger vehicles, and complete heavy−duty vehicles between 8,501 and 14,000 lbs. GVWR with CARB's California OBD II regulation, as last amended in 2013.

Although the federal OBD regulation (40 CFR 86.1806−5) is now generally harmonized with California's OBD II regulation, the federal requirements differ from corresponding California OBD requirements in several respects. California's OBD II regulation still establishes more comprehensive and stringent requirements than the amended federal regulation. The OBD II regulation requires California OBD systems to comply with monitoring requirements earlier than federal OBD systems must comply with the federal OBD regulation. For example, California's OBD II regulation requires OBD systems in medium−duty diesel vehicles and engines to detect PM filter performance faults before emissions exceed 0.03 grams per brake−horsepower hour (g/bhp−hr) beginning in the 2013 model year, and allows exclusions of specific failure modes until the 2015 model year. However, the federal OBD regulation requires federal OBD systems to detect PM filter performance faults at these same levels beginning in the 2019 model year. Therefore, California OBD systems must comply with this requirement (without excluding specific failure modes) at least three model years earlier than federal OBD systems. Additionally, the federal OBD requirements do not incorporate the anti−tampering provisions of the OBD II regulation (that prevent unauthorized modifications of the computer−coded engine operating parameters of the on−board computer) or the deficiency provisions of the OBD II regulation (that allow certification of vehicles with non−fully compliant OBD systems provided manufacturers demonstrate a good−faith effort to comply with OBD requirements as expeditiously as possible, pay fines, and provided the deficiency would not trigger an ordered recall for the OBD system). The federal OBD regulations, however retain the provision that allows U.S. EPA to deem California−certified OBD II systems to comply with the federal OBD regulation.[4]

Historically, virtually every vehicle sold in the U.S. is designed and certified to California's OBD II requirements in lieu of the federal OBD requirements.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D)):

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATION

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subds. (a)(5) & (6)):

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

[4] 40 CFR 86.1806−5(j).

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer must determine whether the proposed regulatory action would create costs to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies. Accordingly, the Executive Officer's determination is as follows:

Cost to any Local Agency or School District Requiring Reimbursement under sections 17500 et seq.:

The proposed amendments will not have any fiscal impacts on local agencies on the current year and the next two subsequent years because the earliest implementation date for the proposal is the 2022 model year. Beginning with the 2021/2022 fiscal year, however, local government agencies will pay a higher purchase price for new heavy− and medium−duty vehicles with engines covered by the proposed amendments if manufacturers pass on costs. CARB's EMFAC model indicates local government heavy− and medium−duty vehicles represent about 8.1 percent of the total State vehicle population. According to annual sales numbers provided by engine manufacturers to CARB, approximately 34,735 heavy− and medium−duty vehicles are sold annually in California. Assuming that local government fleets also purchase 8.1 percent of all new heavy− and medium−duty vehicles sold in California, a total of 2,814 of these vehicles are purchased annually (8.1% * 34,735 annual CA vehicles sales) by local government fleets. This indicates that approximately 16,884 vehicles (2,814 * 6) would be impacted over the six−year life of the proposal and the regulatory cost to local government fleets is estimated to be approximately $119,500 per year (i.e., $42.46 * 2,814) on average in the 2021/2022 fiscal year and thereafter. In addition, local agencies purchased 5,681 light−duty vehicles on average for the past five years, according to interagency analysis of new vehicle registration records. Since the proposed amendments would increase the price of a new light−duty vehicle by $0.34, local agencies will incur additional annual cost of about $2,000 (i.e., $0.34 * 5,681). Therefore, the total annual costs to local agencies will amount to $121,500 (i.e., $119,500 + $2,000) beginning with the 2021/2022 fiscal year and thereafter.

Any cost to local government is not reimbursable by the State, pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500) because the additional costs associated with the proposed amendments apply generally to all entities that purchase affected engines and vehicles, private fleets and owners as well as state and local agencies. The proposed amendments do not mandate a new program or higher level of service on any local government.

Cost or Savings for State Agencies:

The proposed amendments will not have any cost impacts on State agencies in the current fiscal year and next two subsequent fiscal years because the earliest implementation date for the proposed amendments is the 2022 model year. Beginning with the 2021/2022 fiscal year, however, State agencies would be expected to pay a higher purchase price for new heavy− and medium−duty vehicles like any other purchasers of these vehicles. According to CARB's EMFAC model, the State government heavy− and medium−duty vehicle population is about 3.1 percent of the total State vehicle total. Assuming that State government fleets also purchase 3.1 percent of all new heavy− and medium−duty vehicles sold in California, a total of 1,077 of these vehicles are purchased annually by State government fleets (i.e., 3.1% * 34,735 annual HD vehicles sold in CA). Thus, the regulatory cost to State government fleets is estimated to be $45,700 (i.e., $42.46 * 1,077) per year on average in the 2021/2022 fiscal year and thereafter. In addition, State agencies purchased 797 light−duty vehicles on average for the past five years, according to interagency analysis of new vehicle registration records. Since the proposed amendments would increase the price of a new light−duty vehicle by $0.34, State agencies will incur additional annual cost of about $270 (i.e., $0.34 * 797). Therefore, the total annual costs to State agencies will amount to about $46,000 (i.e., $45,700 + $270) beginning with the 2021/2022 fiscal year and thereafter.

The amendments may require negligible additional time for CARB staff to review HD OBD and OBD II applications, but is not anticipated to require additional staff positions.

Other Non−Discretionary Costs or Savings on Local Agencies:

No other non−discretionary costs or savings to local agencies are expected.

Cost or Savings in Federal Funding to the State:

No costs or savings in federal funding is anticipated.

Housing Costs (Gov. Code,§ 11346.5, subd. (a)(12)):

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

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8)):

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact direct-

ly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. Support for this determination is set forth in the Initial Statement of Reasons (ISOR).

Results of The Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subd. (a)(10)):

NON−MAJOR REGULATION: Statement of the Results of the Economic Impact Assessment (EIA):

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would have a minor or no impact on the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impacts Assessment in the ISOR.

Benefits of the Proposed Regulation:

The objective of the proposed amendments is to strengthen the HD OBD and OBD II requirements, provide manufacturers with greater compliance flexibility, and clarify the performance requirements they are expected to meet in designing and developing robust HD OBD and OBD II systems. This will encourage manufacturers to design and build more durable engines and emission−related components, all of which will help ensure that forecasted emission reduction benefits from adopted light−, medium−, and heavy− duty vehicle and engine emission control programs are achieved in−use.

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

Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)):

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

Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subd. (a)(9)):

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. For the proposed changes to the HD OBD regulation, the incremental cost to heavy− and medium−duty engine manufacturers is estimated to be $35.14 per engine. Similarly, the proposed changes to the OBD II regulations are estimated to increase the cost to light−duty and medium−duty gasoline vehicle manufacturers by $0.30 per vehicle. These costs will likely be passed on to the consumer in the form of increases to the retail price of an engine. The incremental cost to consumers is estimated to range from $0.34 for purchasers of light− and medium−duty gasoline vehicles and $42.46 for purchasers of heavy− and medium− duty engines, which is negligible compared to the typical price of a vehicle or engine.

Effect on Small Business (Cal. Code Regs., tit. 1, § 4, subds. (a) and (b)):

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses. Small businesses are estimated to include some heavy−duty engine manufacturers, heavy− and medium−duty engine repair shops, and the smaller heavy− and medium−duty vehicle fleets. The cost impact to the small businesses in these industries is expected to range from zero to $582 assuming these businesses purchase zero to 20 engines per year. Since small engine manufacturers purchase engines from large engine manufacturers for modifications before reselling them, small engine manufacturers would be expected to pass the higher engine purchasing costs on to the purchaser of their engine in the form of an increased retail price for the modified engine as noted above in the cost impacts on private persons or businesses. In addition, small vehicle fleets are expected to incur an incremental annual cost ranging from zero to $66.32 for a fleet purchasing zero to two vehicles. Engine repair shops may experience increased business.

Alternatives Statement (Gov. Code, § 11346.5. subd. (a)(13)):

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

STATE IMPLEMENTATION PLAN REVISION

If adopted by CARB, CARB plans to submit the proposed regulatory action to the United States Environmental Protection Agency (U.S. EPA) for approval as a revision to the California State Implementation Plan

(SIP) required by the federal Clean Air Act (CAA). The adopted regulatory action would be submitted as a SIP revision because it amends regulations intended to reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to the CAA.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency under the California Environmental Quality Act (CEQA), has reviewed the proposed regulatory amendments and concluded that the proposed action is exempt pursuant to CEQA Guidelines § 15308, because the action is an action taken by regulatory agencies for the protection of the environment. A brief explanation of the basis for reaching this conclusion is included in Chapter IV of the ISOR.

SPECIAL ACCOMMODATION REQUEST

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

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

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

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

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

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

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Leela Rao, Manager, On−Board Diagnostics Program Development Section, at (626) 350−6469 or (designated back−up contact) Adriane Chiu, Air Resources Engineer, On−Board Diagnostics Program Development Section, at (626) 350−6453.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Public Hearing to Consider the Proposed Revisions to the Malfunction and Diagnostic System Requirements for Heavy−Duty Engines (HD OBD) and Passenger Cars, Light−Duty Trucks, and Medium−Duty Vehicles and Engines (OBD II).

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on September 25, 2018.

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

HEARING PROCEDURES

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

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non−substantial or grammatical modifications. The Board may also approve for adoption the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before final adoption.

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

FINAL STATEMENT OF REASONS AVAILABILITY

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

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at https://www.arb.ca.gov/regact/2018/hdobd2018/hdobd18.htm.

TITLE 14. STATE MINING AND GEOLOGY BOARD

CALIFORNIA CODE OF REGULATIONS
TITLE 14. NATURAL RESOURCES
Division 2. Department of Conservation
Chapter 8. Mining and Geology
Subchapter 1. State Mining and Geology Board
Article 7. Financial Assurances Appeal Procedures

Office of Administrative Law Notice File Number: Z−2018−0918−05

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

PROPOSED REGULATORY ACTION

The SMGB proposes to amend and adopt new sections in Article 7 of the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1 pertaining to financial assurances appeal procedures. Specifically, CCR sections 3680−3690 will be amended to conform appeal procedures to recent statutory amendments and new CCR sections 3691.1−3691.10 will be added to set forth procedures for the Department of Conservation, Division of Mine Reclamation's (DMR) statutory authority to appeal lead agency approved financial assurance cost estimates (FACEs).

WRITTEN COMMENT PERIOD AND PUBLIC HEARING

Any person, or his or her authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the SMGB. Comments may be submitted by email to smgb@conservation.ca.gov, by facsimile (FAX) to (916) 445−0738, or by mail to:

State Mining and Geology Board
801 K Street, MS 20−15
Sacramento, CA 95814
ATTN: FACE Appeals

The written comment period closes at 5:00 p.m. on November 13, 2018. The SMGB will only consider comments received at the SMGB office by that time.

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

AUTHORITY AND REFERENCE

The SMGB is proposing to amend and adopt new sections of Article 7 of Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act of 1975 (Public Resources Code (PRC) section 2710 et seq., hereinafter "SMARA"), specifically PRC sections 2755 and 2759, to implement, interpret, and make specific PRC sections 2736 and 2770.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On April 18, 2016, Governor Brown signed Assembly Bill (AB) 1142 (Gray) into law and thereby enacted significant reform to SMARA. In order to enact the revisions to SMARA, SMGB must address these changes by way of regulations.

SMARA was enacted in part to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. Under SMARA, surface mining operators are required to submit to their respective local governments (lead agency) for approval a plan for reclaiming lands disturbed by mining activities as well as proof of financial assurances to ensure that those disturbed lands are reclaimed in accordance with the approved reclamation plan. Lead agencies are responsible for ensuring their surface mining operators are in compliance with SMARA's requirements, including permitting and conditions of approval that relate to the conduct of mining, the operation's reclamation plan, and financial assurance requirements.

Existing Law

PRC section 2736 provides that "Financial Assurances" means a current approved FACE and a financial assurance mechanism that is at least equal to the current approved FACE.

PRC section 2770(e)(1) provides an appeals process to the SMGB for a person who can substantiate, based on evidence in the record, that the lead agency has either (1) failed to act according due process or has relied on considerations not related to the specific applicable requirements of PRC sections 2773.1, 2773.4, and the lead agency surface mining ordinance adopted pursuant to PRC section 2774(a) in reaching a decision to deny approval of a financial assurance for reclamation, or (2) failed to act within a reasonable time of receipt of a completed application, may appeal that action or inaction to the SMGB.

PRC section 2770(e)(2) provides authority for DMR to appeal a lead agency approved FACE to the SMGB where DMR has commented pursuant to PRC section 2773.4 that the FACE is inadequate based on consideration of PRC section 2773.1, Article 11 (commencing with section 3800) of Subchapter 1 of chapter 8 of Division 2 of Title 14 of the CCR, and the SMGB's financial assurance guidelines adopted pursuant to PRC section 2773.1(f).

PRC section 2770(f)(1) provides that the SMGB may decline to hear an appeal if it determines that the appeal raises no substantial issues related to the lead agency's decision to deny the approval of financial assurances, or the timeliness in reviewing a completed application. However, appeals filed by DMR must be heard by the SMGB.

PRC section 2770(f)(2) provides that if the SMGB takes up an appeal, the appeal shall be scheduled and heard at a public hearing within 45 days of filing of the appeal, or a longer period as may be mutually agreed to by the SMGB, the appellant, and the operator, or, if the appeal is filed by DMR, by the SMGB, DMR, and the operator.

PRC section 2770(g)(1)(A) provides that when hearing an appeal filed pursuant to PRC section 2770(e)(1) or (e)(2), the SMGB must determine whether the FACE substantially meets the applicable requirements of PRC sections 2773.1, 2773.4, Article 11 (commencing with section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the CCR and the lead agency's surface mining ordinance adopted pursuant to PRC section 2774(a). Additionally, the SMGB must approve or uphold a FACE determined to meet those applicable requirements.

PRC section 2770(g)(1)(B) provides that "substantially" means actual compliance in respect to the substance and form requirements essential to the objectives of SMARA.

PRC section 2770(g)(3)(A) provides that if the SMGB determines the lead agency's approved FACE does not meet the requirements of PRC sections 2773.1 and 2773.4, Article 11 (commencing with section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the CCR, the SMGB's financial assurance guidelines adopted pursuant to PRC section 2773.1(f), the SMGB shall note the deficiencies and, based on the record, include adequate cost estimates for each noted deficiency.

PRC section 2770(g)(3)(B) provides that within 10 days of the hearing, the SMGB must provide notice via certified mail to the lead agency, the operator, and DMR of the SMGB's determination with instructions to the operator to submit to the lead agency for approval a revised FACE consistent with the SMGB's determination. The instructions must include a reasonable submission deadline of not less than 30 days.

PRC section 2770(g)(3)(C) provides that the lead agency must approve the revised FACE and that approval will supersede and void the prior approved FACE.

PRC section 2770(g)(3)(D) provides that a financial assurance mechanism must be established by the operator pursuant to PRC section 2773.4(e) following the approval of the FACE.

PRC section 2770(g)(3)(E) provides that the failure of the operator to submit to the lead agency a revised FACE consistent with the SMGB's determination and deadline may be grounds for the issuance of an order to comply pursuant to PRC section 2774.1(a).

Sections 3680−3690 of CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 7 govern procedures for appeals to the SMGB concerning financial assurances for reclamation of existing surface mining operations under PRC section 2770.

Proposed Action

Amend CCR sections 3680−3690. The proposed amended regulations implement the changes to SMARA as a result of AB 1142 (Gray) signed by Governor Brown on April18, 2016.

Adopt new CCR sections 3691.1−3691.10. The proposed new regulations provide a process for filing, noticing, and hearing FACE appeals made by DMR. The regulations provide specific procedures for DMR, SMGB, the lead agency, and the operator to follow throughout the appeal process, clarifying the responsibilities of each party, and providing timelines for each step. The proposed new regulations closely follow the existing appeals processes available to persons under CCR sections 3680−3690 described above.

Anticipated Benefits of the Proposed Regulatory Action

The broad objective of the proposed regulatory action is to conform existing SMGB appeal processes to revisions to PRC section 2770 and newly enacted PRC section 2736, caused by AB 1142 (Gray). Additionally, the language is intended to provide non−monetary benefits such as the prevention of discrimination, the promotion of fairness, and the openness and transparency in government by strengthening the review and adequacy of FACEs with effective communication between local lead agencies, the state, and mine operators.

CONSISTENCY WITH FEDERAL STATUTE AND REGULATION

The proposed regulatory action does not duplicate or conflict with existing Federal statutes or regulations. By Memorandum of Understanding with the Federal Bureau of Land Management, the United States Forest Service, the Department of Conservation, and the SMGB, SMARA and federal law are coordinated.

CONSISTENCY WITH EXISTING STATE REGULATIONS

The proposed regulatory action is not inconsistent or incompatible with existing regulations pertaining to FACE appeals. After conducting a review for any regulations that would relate to or affect this area, the SMGB has concluded that Article 7 in Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR, contains the only regulations that concern FACE appeals for surface mining operations.

CEQA COMPLIANCE

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

Significant, statewide adverse economic impact directly affecting business, businesses and individuals, including the ability of California businesses to compete with businesses in other states: The SMGB has determined that the proposed regulatory action will not have an adverse economic impact on businesses and individuals statewide, including small businesses. The proposed regulatory action enacts new PRC section 2736 and revisions to PRC section 2770 caused by AB 1142 (Gray). The proposed regulation may affect small business.

Significant effect on housing costs: None.

Business reporting requirement: None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Creation or elimination of jobs within California: The SMGB anticipates the proposed regulatory action will not have an impact on the creation of new, or the elimination of existing, jobs within California.

Creation of new businesses or the elimination of existing businesses within California: The SMGB anticipates the proposed regulatory action will not have an impact on the creation, expansion, or elimination of new or existing business within California.

Benefits to the health and welfare of California residents, worker safety, and the state's environment: The SMGB anticipates that the proposed regulatory action will result in non−monetary benefits to public health and welfare, worker safety, and environmental safety by ensuring the public will have sufficient and reliable funding to guarantee reclamation of mined lands.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the SMGB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SMGB 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 effec-

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

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

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action should be directed to:

Jeffrey Schmidt, Executive Officer
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, California 95814
Phone: (916) 322−1082
Fax: (916) 445−0738
Jeffrey.schmidt@conservation.ca.gov

OR

Will Arcand, Senior Engineering Geologist
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, CA 95814
Phone: (916) 322−1082
Fax: (916) 445−0738
Will.arcand@conservation.ca.gov

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

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

The SMGB will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. Copies of the components of the rulemaking file may be obtained by contacting Jeffrey Schmidt at the address and phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking Action, the Initial Statement of Reasons, and the proposed amended text of the regulation can be accessed through the SMGB website at: http://www.conservation.ca.gov/smgb.

TITLE 14. STATE MINING AND GEOLOGY BOARD

CALIFORNIA CODE OF REGULATIONS
TITLE 14. NATURAL RESOURCES
Division 2. Department of Conservation
Chapter 8. Mining and Geology
Subchapter 1. State Mining and Geology Board
Article 1. Surface Mining and Reclamation Practice

Office of Administrative Law Notice File Number: Z−2018−0918−06

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) proposes to amend the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The SMGB proposes to amend section 3504.5 of the California Code of Regulations (CCR), Title 14, Divi-

sion 2, Chapter 8, Subchapter 1, Article 1, pertaining to conduct of surface mine inspections. Furthermore, the SMGB proposes to adopt a Notice of Completion of Inspection, form NOCI−1 (9/18) as well as repeal inspection form MRRC−1 (4/97) in order to replace it with, and adopt, a revised inspection form, MRRC−1 (9/18) as described under Public Resources Code (PRC) section 2774(b).

WRITTEN COMMENT PERIOD AND PUBLIC HEARING

Any person, or his or her authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the SMGB. Comments may be submitted by email to smgb@conservation.ca.gov, by facsimile (FAX) to (916) 445−0738, or by mail to:

State Mining and Geology Board
801 K Street, MS 20−15
Sacramento, CA 95814
ATTN: Inspections

The written comment period closes at 5:00 p.m. on November 13, 2018. The SMGB will only consider comments received at the SMGB office by that time.

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

AUTHORITY AND REFERENCE

The SMGB is proposing to amend section 3504.5 of Title 14, Division 2, Chapter 8, Subchapter 1, Article 1 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act of 1975 PRC section 2710 et seq., hereinafter "SMARA"), specifically PRC sections 2755 and 2759 to implement, interpret, and make specific PRC section 2774.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On April 18, 2016, Governor Brown signed Assembly Bill (AB) 1142 (Gray) into law and thereby enacted significant reform to SMARA. In order to enact the revisions to SMARA, SMGB must address these changes by way of regulations.

SMARA was enacted in part to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. Under SMARA, surface mining operators are required to submit to their respective local governments (lead agency) for approval, a plan for reclaiming lands disturbed by mining activities, as well as proof of financial assurances to ensure that those disturbed lands are reclaimed in accordance with the approved reclamation plan. Lead agencies are responsible for ensuring their surface mining operators are in compliance with SMARA's requirements, including permitting and conditions of approval that relate to the conduct of mining, the operation's reclamation plan, and financial assurance requirements. The Department of Conservation's (Department), Division of Mine Reclamation (DMR) and the SMGB provide lead agency assistance and oversight. Currently, the SMGB administers certain lead agency responsibilities under SMARA for 38 individual surface mining operations by conducting inspections, reviewing and approving financial assurance cost estimates, and undertaking compliance and enforcement actions when necessary.

Existing Law

PRC section 2774 requires inspections for surface mine operations to occur in intervals of no more than 12 months. It requires inspections to be conducted by a state−licensed geologist, state−licensed civil engineer, state−licensed landscape architect, state−licensed forester, or a qualified lead agency employee. A qualified lead agency employee may only conduct the inspection if he/she has not been employed by the surface mining operation in any capacity during the previous 12 months, except that a qualified lead agency may inspect surface mining operations conducted by the local agency. The lead agency shall provide a notice of completion of the inspection, along with a copy of the inspection report to the director within 90 days of conducting the inspection.

Section 3504.5 of CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 1 clarifies and makes specific the scope, nature, and frequency of a surface mine inspection required under PRC section 2774.

Proposed Action

Amend CCR section **3504.5, Mine Inspections Per Calendar Year**

Repeal inspection form **MRRC−1 (4/97)**

Forms Incorporated by Reference

- Adopt form **MRRC−1 (9/18), Surface Mining Inspection Report**
- Adopt form **NOCI−1 (9/18) Notice of Completion of Inspection**

The proposed regulatory action ensures surface mine inspections are conducted by California state−licensed persons as well as qualified lead agency employees who have not been employed by the operator of the surface mining operation in any capacity during the previous 12 months, clarifies the term "qualified lead agency employee," and makes specific that those conducting sur-

face mine inspections seek input from a California state−licensed person or specialist when an aspect or condition requires such. Additionally, it includes contract employees and those hired pursuant to third−party contracts to adhere to the ethical responsibilities of surface mine inspectors, and conforms the timeframe of when the notice of completion of inspection is provided to the appropriate parties pursuant to statute. Furthermore, the proposed action repeals inspection form, MRRC−1 (4/97), adopts and incorporates by reference the Surface Mining Inspection Report, form MRRC−1 (9/18), (a revised version of inspection form, MRRC−1 (4/97)), and adopts and incorporates by reference the Notice of Completion of Inspection, form NOCI−1 (9/18), as required by PRC section 2774(b).

Anticipated Benefits of the Proposed Regulatory Action

The broad objective of the proposed regulatory action is to make procedural improvements and updates to the conduct of surface mine inspections based on statutory changes to PRC section 2774 caused by AB 1142 (Gray). Furthermore, the proposed amended regulatory language is intended to provide non−monetary benefits such as protection of public health and safety, worker safety, and the environment as well as improve the integrity of statutorily required inspections.

CONSISTENCY WITH FEDERAL STATUTE AND REGULATION

The proposed regulatory action does not duplicate or conflict with existing Federal statutes or regulations. By Memorandum of Understanding with the Federal Bureau of Land Management, the United States Forest Service, the Department, and the SMGB, SMARA and federal law are coordinated.

CONSISTENCY WITH EXISTING STATE REGULATIONS

The proposed regulatory action is not inconsistent or incompatible with existing regulations pertaining to inspections for surface mining operations. After conducting a review for any regulations that would relate to or affect this area, the SMGB has concluded that Article 1 in Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR, contains the only regulations that concern inspections for surface mining operations.

CEQA COMPLIANCE

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB has *made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

Significant, statewide adverse economic impact directly affecting business, businesses and individuals, including the ability of California businesses to compete with businesses in other states: The SMGB has determined that the proposed regulatory action will not have an adverse economic impact on businesses and individuals statewide, including small businesses. Surface mining operations are statutorily required to be inspected. The proposed regulatory action makes procedural improvements to the conduct of surface mine inspections following statutory changes to SMARA from Assembly Bill 1142 (Gray). The proposed regulation may affect small business.

Significant effect on housing costs: None.

Business reporting requirement: The SMGB finds that it is necessary for the health, safety, or welfare of the people of this state that this regulation, which requires a report, apply to business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Creation or elimination of jobs within California: The SMGB anticipates the proposed regulatory action will not have an impact on the creation of new, or the elimination of existing, jobs within California.

Creation of new businesses or the elimination of existing businesses within California: The SMGB anticipates the proposed regulatory action will not have an impact on the creation, expansion, or elimination of new or existing business within California.

Benefits to the health and welfare of California residents, worker safety, and the state's environ-

ment: The SMGB anticipates that the proposed regulatory action will result in non−monetary benefits to public health and welfare, worker safety, and environmental safety by improving the integrity of statutorily required surface mine inspections. Surface mine inspections are intended to ensure that mine operators are complying with their permits, conditions of approval that relate to the reclamation plan, and SMARA, eventually making progress towards final reclamation of mined lands to a usable condition which is readily adaptable for alternative land uses. Additionally, inspections prevent and/or minimize adverse environmental effects of surface mines and play a vital role in ensuring compliance with other environmental laws.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action should be directed to:

Jeffrey Schmidt, Executive Officer
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, California 95814
Phone: (916) 322−1082
Fax: (916) 445−0738
Jeffrey.schmidt@conservation.ca.gov

OR

Will Arcand, Senior Engineering Geologist
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, CA 95814
Phone: (916) 322−1082
Fax: (916) 445−0738
Will.arcand@conservation.ca.gov

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

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

The SMGB will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. Copies of the components of the rulemaking file may be obtained by contacting Jeffrey Schmidt at the address and phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking Action, the Initial Statement of Reasons, and the proposed

amended text of the regulation can be accessed through the SMGB website at: http://www.conservation.ca.gov/smgb.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR) proposes to amend Section 3763, and adopt new Section 3767, of the California Code of Regulations, Title 15, concerning flash incarceration of parolees.

PUBLIC HEARING

Date and Time:	**November 14, 2018 — 10:00 a.m. to 11:00 a.m.**
Place:	California Department of Corrections and Rehabilitation Conference Room 100N 1515 S Street, North Building Sacramento, CA 95811
Purpose:	To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close **November 14, 2018, at 5:00 p.m.** Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

CONTACT PERSONS

Primary Contact
Josh Jugum
Telephone: (916) 445−2228
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283−000I

Back−Up
Y. Sun
Telephone: (916) 445−2269
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283−0001

Program Contact
C. Bell
Division of Adult Parole Operations
(916) 324−9325

AUTHORITY AND REFERENCE

Government Code Section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, 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 are vested in the Secretary of the CDCR.

PC Section 5055 provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Effective July 1, 2013, Assembly Bill 117, Criminal Justice Realignment, added flash incarceration under Penal Code (PC) Section 3000.08(e). Flash incarceration is a period of detention, between one and ten consecutive days, in a city or a county jail due to a violation of a parolee's conditions of parole.

This action will:

- Establish the Department's authority to impose upon parolees a period of incarceration of up to 10 days in a county jail, as a remedial sanction for a parole violation, pursuant to statute.
- Establish a limit, with specified exceptions, of three flash incarceration periods during the term of parole.
- Update specified Department forms.

FORMS INCORPORATED BY REFERENCE

CDCR Form 1676 (Rev. 04/13), Parole Violation Report

CDCR Form 1502−B (Rev. 05/15), Probable Cause Determination

CDCR Form 2278 (Rev. 06/18), Arrest Report

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The safety of California residents may be enhanced through improved parole supervision that allows for short periods of local incarceration for minor parole violations, rather than revocation of parole and return to prison, which may be beneficial for the rehabilitation of parolees.

EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the Department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review, the Department has concluded that these are the only regulations that concern flash incarceration of parolees.

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500−17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*
- Cost to any local agency or school district that is required to be reimbursed: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

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.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed regulations 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 place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California.

The Department has determined that the proposed regulation will have no effect on worker safety or the state's environment.

The Department has determined that the proposed regulations may benefit the welfare of California residents by improving rehabilitative outcomes for parolees.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has

otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost−effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website: www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

DATE: September 28, 2018

ACTION: **Notice of Proposed Regulatory Action**

SUBJECT: Standard Prescription Drug Formulary Template, Adding Section 1300.67.205 to Title 28, California Code of Regulations, Control No. 2017−5229.

Public Proceedings

Notice is hereby given that the Director of the Department of Managed Health Care (Department) proposes to add a regulation under the Knox−Keene Health Care Service Plan Act of 1975 (Knox−Keene Act) and corresponding regulations contained in Title 28, California Code of Regulations (CCR). The proposed regulation implements Senate Bill (SB) 1052[1] by specifying a standardized prescription drug formulary template health care service plans (health plans) must utilize for their prescription drug coverage. The proposed regulation provides the formulary template, clarifying terms and educational information relevant to the provision of prescription drug benefits.

This rulemaking action proposes to add section 1300.67.205, Standard Prescription Drug Formulary Template, to title 28 of the CCR. Before undertaking this action, the Director of the Department (Director) will conduct written public proceedings, during which time any interested person, or such person's duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

PUBLIC HEARING

The Department will hold a public hearing regarding this regulation on **November 13, 2018.** The public hearing will begin at **10:00 a.m.** and end when all public comments have been received or **12:00 p.m.**, whichever is earlier. The location of the public hearing is:

980 Ninth Street, 6th Floor
Room of Inspiration
Sacramento, CA 95814

The facility is accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person for these hearings in order to make special arrangements. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department re-

[1] Sen. Bill No. 1052 (2013−2014 Reg. Sess.) Ch. 575.

quests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments, or contentions (hereafter referred to as comments) relating to the proposed regulatory action by the Department. Comments must be received by the Department, Office of Legal Services, **by 5:00 p.m. on November 13, 2018,** which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Jennifer Willis, Attorney IV. Comments may be transmitted by regular mail, fax, or email:

Website:	http://www.dmhc.ca.gov/LawsRegulations.aspx#open
Email:	regulations@dmhc.ca.gov
Mail:	Department of Managed Health Care Office of Legal Services 980 Ninth Street, Suite 500 Attn: Jennifer Willis, Attorney IV Sacramento, CA 95814
Fax:	(916) 322−3968

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

Please identify the action by using the Department's rulemaking title and control number, **Standard Prescription Drug Formulary Template, Control No. 2017−5229,** in any of the above inquiries.

CONTACTS

Inquiries concerning the proposed adoption of this regulation may be directed to:

Jennifer Willis
Attorney IV
Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento, CA 95814
(916) 324−9014
(916) 322−3968 fax
jennifer.willis@dmhc.ca.gov

OR

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

AVAILABILITY OF DOCUMENTS

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

The Notice of Proposed Rulemaking Action, the proposed text of the regulation, and the Initial Statement of Reasons are also available on the Department's website at http://www.dmhc.ca.gov/LawsRegulations.aspx#open.

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

AVAILABILITY OF MODIFIED TEXT

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

AUTHORITY AND REFERENCE

Health and Safety Code section 1341, subdivision (a), authorizes the Department to regulate health plans.

Health and Safety Code section 1341.9, vests the Director of the Department with all duties, powers, purposes, responsibilities, and jurisdiction as they pertain to health plans and the health plan business.

Health and Safety Code section 1344 grants the Director the authority to adopt, amend, and rescind such

rules, forms and orders as necessary to carry out the provisions of the Knox−Keene Act.

Health and Safety Code section 1363.01 requires health plans offering prescription benefits to provide notice of such benefits in their Evidence of Coverage form. Health plans must also provide specific information regarding how a health plan determines which prescription drugs are included or excluded in their benefits. If requested by a member of the public, health plans must provide notification that existence of a drug on a formulary does not guarantee that an enrollee will be prescribed that drug for a particular medical condition.

Health and Safety Code section 1367.20 requires health plans that provide coverage for prescription drug benefits and maintain a formulary to provide to a requesting party the most current list of prescription drugs available on the formulary. The prescription drugs must be listed by major therapeutic category showing preferred drugs.

Health and Safety Code section 1367.24 requires health plans maintain an expeditious process for prescribing providers to obtain authorization for a medically necessary nonformulary prescription drug.

Health and Safety Code section 1367.241 sets forth the use and requirement of prior authorization and step−therapy exception request forms and the timeline for responses to non−urgent and exigent prior authorization and step−therapy exception requests.

Health and Safety Code section 1367.205 requires the Department, along with the California Department of Insurance (CDI), to create a formulary template for use by health plans. This section also requires health plans to publicly post on their websites complete prescription drug formularies for each of the health plans' products including information such as cost sharing, tiers and utilization controls.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Senate Bill 1052 directs the Department, in conjunction with CDI and with input from at least one stakeholder meeting, to develop a standard formulary template. Health and Safety Code section 1367.205, requires the Department to take into consideration existing requirements for the reporting of formulary information established by the Centers for Medicaid and Medicare Services (CMS) and, to the extent feasible, take into consideration cost sharing information for drugs, including for drugs subject to coinsurance, when drafting the proposed regulation.

This proposed regulation sets forth the requirements of Health and Safety Code section1367.205 and implements the goals of SB 1052 by providing a standard prescription drug formulary template for use by all health plans. The formulary template will ensure enrollees are provided with uniform drug benefit information. This regulation also creates easier access for enrollees to their prescription drug coverage as required under the Knox−Keene Act. The regulation serves an important purpose in increasing transparency in the area of prescription drug formularies. The regulation implements the requirements of Health and Safety Code section 1367.205, by mandating the health plans to publicly post on their websites complete prescription drug formularies for each of the health plans' products, including cost sharing tiers and utilization controls, such as prior authorization and step therapy requests. Currently, health plans do not use a common organizational structure for formularies, causing prescription drug formulary comparisons between health plans to be difficult. Many health plans post only their most commonly prescribed drugs, not the entire list of pharmaceutical drugs covered under the prescription drug benefit. The requirements of this regulation will assist enrollees, especially those with chronic conditions who rely on prescription drugs to manage their illness, to make an easier comparison of prescription drug coverage among different health plans and health plan products.

This rulemaking action implements the requirement of SB 1052 for the Department to develop a standardized prescription drug formulary template for use by the health plans and enrollees.

BROAD OBJECTIVES AND SPECIFIC BENEFITS OF THE REGULATION

Pursuant to Government Code section 11346.5, subdivision (a)(3)(C), the broad objective of this regulation is to specify the standard prescription drug formulary template health plans must utilize for their prescription drug benefits pursuant to the requirements of Health and Safety Code section 1367.205.

The objective of proposed subdivision (a) addresses the problem of ambiguity in key terms and phrases used to draft a formulary as required under section 1367.205 of the Health and Safety Code. Without this subdivision, health plans employ varying definitions that take away from the goal of section 1367.205 of the Health and Safety Code to create consistency amongst pharmacy benefits. Senate Bill 1052 is intended to ensure all health plan formularies are substantially similar and to assist health plan enrollees in understanding prescription drug benefits. Uniformity in key terms has the benefit of clarity for regulated entities, as well as efficient compliance and enforcement review by the Department.

Subdivision (a)(1) defines "coverage document" to include all documents that encompass the enrollee's

health care coverage under a health plan contract. The broad objective is to ensure health plans provide consistent information regarding drug benefits in the health plan documents by defining the scope of a coverage document. The specific benefit is that this definition allows for a reference for health plans to use and creates a term easily understandable for an enrollee.

Subdivision (a)(2) defines "dosage form." The broad objective of this definition is to provide a consistent and uniform understanding of this term that is based on the federal United States Food and Drug Administration (FDA) definition. The specific benefit is this term is vital for both health plans and enrollees in providing clarity and understanding of the form in which a prescription drug is prescribed (e.g.: liquid vs. tablet) and ensures all health plans utilize the same terminology for types and forms of prescription drugs.

Subdivision (a)(3) defines "established name." The broad objective of this definition is to ensure that all health plans are appropriately listing and uniformly labeling a prescription drug as generic and/or the brand name drug. The specific benefit is to prevent any ambiguity as to the name brand or generic of the prescription drug and assist health plans and enrollees in implementing and understanding the types of drugs available on their formularies.

Subdivision (a)(4) defines "exception request." The broad objective of this definition is to assist health plans and enrollees in the understanding of this term by noting the relevant Health and Safety Code provisions that impact this term. The specific benefit is ensuring a consistent use and understanding of this term under the Knox−Keene Act as well as consistent application of this term by health plans.

Subdivision (a)(5) defines "exigent circumstances." The broad objective of this definition is to ensure health plans and enrollees have a uniform understanding of this term and how it applies to specific circumstances that may exist for an enrollee and impact the enrollee's access to prescription drugs. The specific benefit is ensuring consistent use and application of this term as defined in Health and Safety Code section 1367.241, subdivision (h)(2).

Subdivision (a)(6) defines "formulary." The broad objective of this definition is requiring health plans provide a uniform application of this term to better assist enrollees in understanding their available drug benefits. The specific benefit of this definition is ensuring all health plans are utilizing the definition of a formulary as set forth in section 1367.205 of the Health and Safety Code. The definition of this term ensures consistency amongst various Knox−Keene Act provisions involving pharmacy benefits. This term eliminates confusion for both health plans and enrollees that might be caused by inconsistent definition and application of this term.

Subdivision (a)(7) defines "nonformulary." The broad objective of this definition is ensuring uniform understanding of this term by health plans and enrollees for prescription drug benefits. The specific benefit of this definition is implementing subdivision (i) of Health and Safety Code section 1367.24 and ensuring consistency of terms within the Knox−Keene Act. This definition is necessary for uniform compliance with the law and enabling enrollees to better understand their prescription drug rights when reviewing health plan formulary documents.

Subdivision (a)(8) defines "prescription drug." The broad objective of this definition is ensuring consistent application and understanding of this term by health plans and enrollees. The specific benefit is defining this term in a consistent manner with Health and Safety Code sections 1367.002 and 1367.25, and rule 1300.67.24. This definition ensures consistency of this term under the provisions of the Knox−Keene Act and will enable health plans to better understand their obligations regarding enrollee access to prescription drug benefits.

Subdivision (a)(9) defines "product." The broad objective of this definition is to ensure uniform understanding and application of this term by all health plans. The specific benefit is to ensure compliance with section 1367.27 of the Health and Safety Code. Section 1367.27 contains the uniform provider directory standards requirements and requires health plans to provide information in their directories for each product the health plan markets. This further ensures uniform use of the term "product." Defining this term also ensures consistent understanding of the standards throughout all health plan documents and alleviates potential confusion for both the health plans and the enrollees.

Subdivision (a)(10) defines "quantity limit." The broad objective of this definition is to ensure uniform understanding of this term by health plans and enrollees. The specific benefit is that this term furthers the implementation of Health and Safety Code section 1367.205, which requires the formulary template to include utilization control information for drug benefits. This term is defined consistently with the National Association of Insurance Commissioners' (NAIC) "Health Carrier Prescription Drug Benefit Management Model Act." The Department is utilizing the definition proposed by the NAIC as it has been vetted and reviewed by the NAIC for use with prescription drug coverage and is understood within the healthcare industry. Defining quantity limit is essential to an enrollee's understanding of their prescription drug benefits and any limits on the quantity of a prescription drug that are allowed under their coverage.

Subdivision (a)(11) defines "strength". The broad objective of this definition is to ensure uniform under-

standing and application of this term and to allow for an easier understanding of this term by both the health plans and the enrollees. The specific benefit is that the definition ensures enrollees are provided a plain English definition of the term's meaning. The strength of a prescription drug is vital to an enrollee's understanding of their prescription drug benefit and its application to their medical condition and ensuring the enrollee is clearly informed about how the term is used within a health plan formulary.

Subdivision (b) provides the overall format of a formulary and requires a formulary to be searchable by enrollees. By setting forth the specific format and information required of health plans under subdivision (b), the formulary template provides enrollees with uniform and consistent information. This provision also requires all formularies to contain the following sections: (1) Coverage Page; (2) Table of Contents; (3) Informational Section; (4) Categorical List of Prescription Drugs; and (5) Index. The broad objectives and specific benefits for including these sections are discussed further below except for the table of contents requirement. The broad objective of the table of contents is to provide another easily understood method for enrollees to locate their prescription drugs and other information within the formulary.

Subdivision (c) sets forth the cover page requirements of a formulary. The broad objective of this subdivision is to make available a cover page that provides uniform and consistent information to all enrollees. This also ensures all enrollees are viewing substantially similar formulary templates regardless of their health plan. The specific benefit implementing subdivision (b)(1) of the formulary template by setting out the specific information that must be included in the cover page to meet the regulatory requirement. This requirement benefits both health plans and enrollees by setting forth specific criteria to be included in a drug formulary and easy understanding of the location of health plan information contained in the formulary document. This subdivision is also supported by the California Health Care Foundation's (CHCF) research. A survey taken by the CHCF found that a cover page of a formulary is vital as three−quarters of individuals surveyed wanted the cover page of a formulary to specify the type of coverage and product information.[2]

Subdivision (c)(1) requires all formularies to contain the name of the document. The broad objective is to ensure that all formularies are consistently and clearly identified by the name referenced in all health plan documents. The specific benefit is that enrollees will be able to identify the formulary for each product of a health plan quickly and efficiently.

Subdivision (c)(2) requires all formularies to contain the name of the health plan. The broad objective is to make clear who is offering the particular formulary. The specific benefit is that this will ensure from the beginning that enrollees are aware of each health plan formulary. This will assist enrollees in determining whether a particular benefit is included in a health plan's formulary, which may impact whether the enrollees choose a particular health plan.

Subdivision (c)(3) requires all health plans to name each health plan product applicable to a formulary and requires the product names to comply with the uniform provider directory standards set forth in Health and Safety Code section 1367.27. Health and Safety Code section 1367.26, subdivision (b), requires that health plans provide the directory or directories for the specific network offered for each health plan product using a consistent product naming, numbering or other classification method. The broad objectives of this subdivision are to ensure all enrollees are able to determine the formularies that apply to specific health plan products and ensure conformity of the product names across all health plan coverage documents. The specific benefit is that this subdivision implements section 1367.205, subdivision (a)(1). This subdivision of the statute requires health plans to post a formulary or formularies for each product offered by a health plan on the health plan's website. This subdivision will also allow enrollees to compare formularies of different health plans in a manner that is easy and accessible.

Subdivision (c)(4) requires a formulary to set forth the date the formulary was last updated. The broad objective is to ensure all health plans notify enrollees and prospective enrollees of the effective date to ensure enrollees are reviewing the most accurate up−to−date information. The specific benefits are ensuring enrollees are aware of the date when a formulary was last updated and enabling enrollees to understand they are reviewing the most recent formulary applicable to their health plan product. This provision also assists enrollees with comparing the most recent versions of various health plan formularies when making coverage decisions.

Subdivision (c)(5) furthers the implementation of subdivision (c)(4) of the formulary template by requiring notification to enrollees that a formulary is subject to change and outdated copies of a formulary should be discarded by enrollees. The broad objective of this subdivision is to eliminate any misunderstanding or confusion for enrollees when accessing drug benefits for their plan product. The specific objectives are to ensure enrollees understand they are reviewing the most recent copy of a formulary and that only the most recent formulary is applicable to their prescription drug cover-

[2] California HealthCare Foundation, "Hidden From View: How Enrollees Find Information About Prescription Coverage," August 2015, page 9.

age. This provision will also assist enrollees with comparing formularies of different health plans in a manner made accessible by ensuring the review of the most current health plan documents.

Subdivision (c)(6) requires health plans to provide a direct website link/URL for the location of the electronic version of the formularies posted on their website. If there is more than one health plan product, the enrollee must be able to identify each health plan product. The broad objective of this subdivision is requiring health plans provide the enrollees an option to obtain an electronic version of a formulary. The specific benefit is that this subdivision implements Health and Safety Code section 1367.205, subdivision (a)(1) by requiring a health plan to post the formularies for each product offered by the health plan on its website in a manner that is accessible and searchable by enrollees, potential enrollees, providers, the general public and the Department.

Subdivision (c)(7) requires a formulary to contain a direct health plan website link for enrollees to locate specific coverage documents containing cost sharing information. The broad objective of this provision is providing enrollees access to information on cost sharing so they understand the financial implications of accessing types of drugs in the health plan formulary. The specific benefit is implementing subdivisions (a)(1) and (b)(1) of Health and Safety Code section 1367.205. These subdivisions of the Health and Safety Code require a formulary be posted on the health plan's website in an accessible manner for enrollees and, if possible, contain cost sharing information.

Subdivision (d) describes overall the information a formulary must contain to assist enrollees in understanding the meaning of a formulary, including utilization information and its application to an enrollee's prescription drug coverage. The broad objective of this subdivision is providing enrollees with educational information in a consistent and uniform manner. This is done by setting forth the information health plans must include in their product formularies. The specific benefit is implementing Health and Safety Code section 1367.205, subdivisions (b)(2)(C) and (D). These subdivisions of the Health and Safety Code require a formulary to contain information regarding cost sharing, utilization controls, and indicate which drugs are preferred drugs. These subdivisions also require the health plans to educate enrollees on drugs covered under the health plan's medical benefit and drugs covered under the health plan's prescription drug benefit. This is important as it can affect the cost of an enrollee's access to prescription drugs. This regulatory provision educates enrollees about obtaining drugs that are nonformulary, information on generic and brand name drugs, and the tier information of prescription drugs, all of which impact costs. In a study, the CHCF determined that increasing enrollee education was one of the most important steps in addressing the gap in knowledge about prescription drug benefits.[3] The Department is implementing subdivision (d) to assist enrollees in understanding the purpose of a health plan formulary and how to utilize the formulary to understand their prescription drugs coverage and costs.

Subdivision (d)(1) requires a health plan to provide a way for an enrollee to contact a health plan's member services department and obtain information that is specific to an enrollee's prescription drug coverage. The broad objective is ensuring all health plans provide access to a health plan contact in a consistent and timely manner. The specific benefit is enrollees will have a knowledgeable plan contact information based on the enrollees' specific prescription drug coverage. This allows enrollees to receive assistance in a timely manner when contacting their health plan for information or assistance. The enrollee information available from the health plan contact must include specific cost sharing and prior authorization assistance as detailed in Health and Safety Code section 1367.205, subdivision (b)(1).

Subdivision (d)(2) requires health plans to define terms used in this subdivision or, if a similar term is used, to define the substituted term. This subdivision allows a health plan to request an exception from the Department to replace the stated definition with another reasonable definition. The broad objective is requiring health plans to define key terms used in the formulary in a uniform and consistent manner. The specific benefit is assisting enrollees in their understanding of important terms used in a health plan formulary. According to the CHCF's study, most enrollees are not familiar with key terms routinely used in a health plan's formulary.[4] By requiring health plans to define terms in a consistent and uniform manner, as well as in plain English, the Department is ensuring enrollees clearly understand the terms and their application to the enrollee's prescription drug benefits.

Subdivision (d)(2)(A) defines "Brand name drug" and requires brand name drugs to be listed in all capital letters. The broad objective of this subdivision is ensuring health plans define brand name drugs in a consistent and uniform manner. The specific benefit is ensuring enrollees may easily identify the brand name drugs and creating transparency between brand name and generic drugs, both of which impact enrollee costs. This provision is supported by the CHCF's recommendation that health plan formularies are more accessible to an enrollee if the formulary indicates whether the drugs available are generic or brand name. The CHCF sur-

[3] Adams, "Hidden From View," page 9.
[4] Adams, "Hidden From View," page 6.

veyed participants, who provided comments on how to make formularies easier to access and interpret.[5] If brand and generic drugs are identified in a consistent manner, an enrollee looking at the name of a particular drug will have a better understanding of the pharmaceutical benefit and associated cost of the drug.

Subdivision (d)(2)(B) defines "coinsurance" to ensure health plans use this term in a consistent manner. The broad objective of defining this term is to ensure enrollees understand their formulary and how coinsurance may impact access to their prescription drug benefits. The specific objective of this provision is to ensure an enrollee has a clear understanding of the financial impact of choosing certain prescription drugs. The CHCF study found enrollees with a chronic condition identified knowing specific out−of−pocket drug costs, copayments, and coinsurance amounts as an important component in understanding their prescription drug benefits.[6]

Subdivision (d)(2)(C) defines "copayment" to ensure health plans use this term in a consistent and uniform manner. The broad objective is ensuring enrollees have a clear understanding of this term and how it impacts their prescription drug benefits. The specific objective is ensuring enrollees' understanding of how a health plan copayment works with the enrollee's prescription drug benefits. The CHCF noted in its research the importance of this information for enrollees with chronic conditions. Knowing the specific out−of−pocket drug costs for their conditions was listed as an important component for understanding a health plan formulary by nearly half of the people surveyed.[7]

Subdivision (d)(2)(D) defines "deductible" to ensure health plans use this term in a consistent and uniform manner. The broad objective of defining this term is ensuring enrollees have a clear understanding of how the term is used in a health plan formulary. The specific objective of this definition is ensuring enrollees understand how their deductibles impact their prescription drug benefits. The CHCF determined one of the most important factors for consumers shopping for prescription drug coverage is out−of−pocket costs, including deductibles and copays.[8]

Subdivision (d)(2)(E) defines "drug tier." The broad objective is ensuring this term is defined by health plans in a consistent and uniform manner. The specific benefits are ensuring enrollees understand the meaning of the term and how it is used in a health plan formulary. The CHCF study found enrollees confusing drug tiers with metal tiers as used in the Patient Protection and Affordable Care Act.[9] The definition of the term will assist enrollees in understanding how a drug tier is used by a health plan in a formulary, and how higher tiers affect the pricing of prescription drug benefits.

Subdivision (d)(2)(F) defines "enrollee." The broad objective is ensuring health plans define the term in a consistent and uniform manner. The specific benefit is ensuring an enrollee understands the meaning of this term when used in a health plan formulary. This definition is the same as the definition in Health and Safety Code section 1345 thereby maintaining consistency within the Knox−Keene Act.

Subdivision (d)(2)(G) defines "exception request" to assist enrollees in understanding an exception for a nonformulary drug under certain circumstances. The broad objective of this provision is to clarify how an enrollee requests an exception to prescription drug benefits under the health plan formulary. The specific benefit is assisting enrollees who may need prescription drugs that are not available except through the exception request process. Many enrollees are unfamiliar with the exception request process and do not have an understanding of the term. Defining this term within a health plan formulary will educate enrollees on the scope of their prescription drug benefits.

Subdivision (d)(2)(H) defines "exigent circumstances" to assist enrollees in understanding when an exigent circumstance exists and requires different timeframes for obtaining prescription drugs. The broad objective of this subdivision is to clarify the meaning of exigent circumstance. The specific benefit is assisting enrollees in requesting a review of their timely access to a prescription drug based on exigent circumstances.

Subdivision (d)(2)(I) defines "formulary." The broad objective of this subdivision is to clarify the meaning of the term "formulary" for enrollees and to ensure health plans define the term in an easily understood and consistent manner. The specific benefit is that this subdivision implements Health and Safety Code section 1367.205, subdivision (c), and further assists enrollees in a comprehensive understanding of their ability to obtain prescription drug benefits under the terms of a health plan formulary.

Subdivision (d)(2)(J) defines "generic drug" and requires health plans to list generic named drugs in bold and italicized lowercase letters. The broad objective of this subdivision is ensuring health plans define generic drugs in a consistent, noticeable and uniform manner in the formulary. The specific benefits are ensuring enrollees easily identify generic named drugs versus drugs that are name brand within the health plan formulary. If brand and generic drugs are identified in a consistent manner, an enrollee will be able to identify a

[5] Adams, "Hidden From View," page 9.
[6] Adams, "Hidden From View," page 6.
[7] *Id.*
[8] Adams, "Hidden From View," page 4.
[9] Adams, *supra*, page 6.

drug as generic or name brand by reviewing the font and format of the drug. This provision creates a uniform, accessible and transparent standardized formulary.

Subdivision (d)(2)(K) defines "nonformulary drug." The broad objective is requiring health plans to define this term in a consistent and uniform manner. This definition will assist enrollees in understanding their drug benefits under the terms of a health plan formulary. The specific benefit is helping enrollees understand their rights under their prescription drug benefit, including the right to access nonformulary drugs in certain situations that would not otherwise be covered.

Subdivision (d)(2)(L) defines "out−of−pocket cost." The broad objective is ensuring the term is defined by health plans in a consistent and uniform manner. The specific benefit is helping enrollees to better understand their cost in accessing prescription drug benefits. The CHCF identified that one of the biggest concerns for enrollees when purchasing prescription drugs was the cost. The CHCF further reported affordability of monthly premiums and other out−of−pocket costs as the foremost consideration in purchasing coverage.[10] This provision helps to address this concern by adding an easily understood definition to the term "out−of−pocket cost" to assist enrollees in understanding the impact of accessing prescription drugs under the terms of their formulary.

Subdivision (d)(2)(M) defines "prescribing provider." The broad objective is ensuring health plans are using this term in a consistent and uniform manner within their prescription drug formulary. The specific benefit is assisting enrollees in understanding how to obtain a prescription and who must provide the prescription for a drug under the terms of the health plan formulary.

Subdivision (d)(2)(N) defines "prescription." The broad objective is ensuring health plans define this term in a consistent and uniform manner. The specific benefit is helping enrollees understand the meaning of this term and how it is used by health plans within a formulary. This provision clarifies what is considered a prescription and must be obtained by a prescribing provider by an enrollee to access drugs under the terms of their prescription drug benefit.

Subdivision (d)(2)(O) defines "prescription drug." The broad objective is to ensure health plans are using this term in a consistent and uniform manner by complying with the term as noted in subdivision (d)(2)(O) of the formulary template. The specific benefits are to assist enrollees who are reviewing formularies, ensure enrollees have a clear understanding of the term and how it applies to them when obtaining or requesting prescription drugs.

Subdivision (d)(2)(P) defines "prior authorization." The broad objective is to ensure health plans are using this term in a consistent and uniform manner in their formularies by requiring the term to comply with subdivision (d)(2)(P) of the formulary template. The specific benefits are to help enrollees understand the use of this term in a formulary and their rights to obtaining drugs that require a prior approval by a health plan. This provision also implements subdivision (b)(2)(A) of section 1367.205 requiring a formulary to include information on health plan utilization controls such as prior authorization.

Subdivision (d)(2)(Q) defines "step therapy." The broad objective is to ensure that this term is defined in a consistent and uniform manner by requiring health plans comply with subdivision (d)(2)(Q) of the formulary template. The specific benefit is to assist enrollees in their understanding of the step therapy process for prescription drugs and other important rights of the enrollees such as the requirement that an enrollee use one drug before the enrollee can be prescribed another drug. This provision also implements subdivision (b)(2)(A) of section 1367.205, requiring health plans include information on utilization controls such as step therapy in the formularies.

Subdivision (d)(2)(R) defines "subscriber." The broad objective is ensuring health plans define the term in a consistent and uniform manner. The specific benefit is ensuring an enrollee understands the meaning of this term when used in a health plan formulary. This definition is the same as the definition in Health and Safety Code section 1345 thereby maintaining consistency within the Knox−Keene Act.

Subdivision (d)(3) requires health plans to set forth any additional key terms health plans use in a formulary. The broad objective is to ensure that health plans define any additional key terms in a consistent and uniform manner by requiring compliance with subdivision (d)(3) of the formulary template. The specific benefit is assisting enrollees in understanding the health plan formularies and their rights and obligations under their prescription drug benefit.

Subdivision (d)(4) lists instructions on how enrollees locate their prescription drugs in the categorical list of prescription drugs contained in a health plan formulary. The broad objective is to ensure health plans explain to enrollees how to use a formulary by requiring compliance with subdivision (d)(4) of the formulary template. The specific benefit is to help the enrollees understand how the prescription drugs are organized in a formulary. The other specific benefit is to clarify and alleviate confusion that enrollees may have when trying to locate drugs on a formulary.

Subdivision (d)(5) lists how drugs should be listed in a formulary including an explanation of what drugs are

[10] Adams, "Hidden From View," page 4.

generic or name brand, and the availability of obtaining these drugs. The broad objective is to ensure that all health plans list the drugs in a consistent and uniform manner by requiring compliance with subdivision (d)(5) of the formulary template. The specific benefit is making it easier for enrollees to compare formularies, including generic or name brand availability, of different drugs in a health formulary. This subdivision assists in creating accessibility and transparency in prescription drug coverage.

Subdivision (d)(6) requires health plans to provide a description of the drug tiers utilized on a formulary. The broad objective is ensuring health plans describe the drug tiers in a consistent and uniform manner by requiring compliance with subdivision (d)(6) of the formulary template. The specific benefit is implementing subdivision (b)(2)(F) of Health and Safety Code section 1367.205, which requires this tiering information be included in the regulation.

Subdivision (d)(7) requires health plans to describe all utilization management requirements imposed on prescription drug benefits. The broad objective is ensuring health plans disclose the utilization controls of the prescription drugs in a consistent and open manner by complying with the requirements of subdivision (d)(7) of the formulary template. An additional benefit is giving the enrollees a method to compare one formulary against another. The specific benefit is to implement section 1367.205, subdivision (b)(2)(A), requiring a formulary to include information regarding health plan utilization controls.

Subdivision (d)(8) requires health plans to give information in the formulary on the difference between prescription drugs covered under the medical benefit and prescription drugs covered under the prescription drug benefit of an enrollee's coverage. The broad objective is to provide information on whether the prescription drug benefit is covered under the medical benefit or the prescription benefit, including related cost and authorization differences, per subdivision (d)(8) of the formulary template in a clear and concise manner. The specific benefit is to implement Health and Safety Code section 1367.205, subdivision (b)(2)(C). Another benefit is assisting enrollees in differentiating whether it is the health plan or another entity that is responsible for the approval or disapproval of a prescription drug authorization request, since the responsibility depends on the financial benefit responsibility contracted between the health plans and other entities.

Subdivision (d)(9) requires health plans to provide notice to enrollees that a formulary is updated monthly to show the most current benefits available. The broad objective is ensuring enrollees understand the type of changes that are being made to a formulary and whether those changes impact the enrollee's access to his or her prescription drug access. The specific benefit is implementing section Health and Safety Code section 1367.205, subdivision (a)(2), requiring health plans provide notice to enrollees that the formulary is updated monthly. This provision ensures enrollees will understand that changes are being made to their formularies and how these changes impact their coverage options.

Subdivision (d)(10) requires health plans to provide an explanation that presence of a prescription drug on the prescription drug formulary does not guarantee enrollee will be prescribed the prescription drug. The broad objective is ensuring all health plans are notifying enrollees of this requirement in a consistent and uniform manner for enrollee awareness. The specific benefit is assisting the enrollees in understanding their rights and obligations for obtaining prescription drug benefits under a health plan's formulary and knowing the presence of a drug does guarantee that the enrollee will receive an authorization for the drug from a provider or health plan.

Subdivision (d)(11) requires health plans to provide a notice of coverage of nonformulary drug when the drug is medically necessary as well as the process for obtaining the coverage. The broad objective is ensuring all health plans provide this notice in a clear and consistent manner by requiring mandatory compliance with subdivision (d)(11) of the formulary template. The specific benefit is implementing Health and Safety Code section 1367.205, subdivision (b)(2)(D), requiring health plans provide notice of nonformulary drug coverage when medically necessary and the process for obtaining coverage. This provision also ensures consistent application of Health and Safety Code section 1367.24, which requires health plans maintain an expeditious process by which prescribing providers may obtain authorization for medically necessary nonformulary prescription drugs.

Subdivision (d)(12) requires health plans to provide information to enrollees on how to locate and fill a prescription drug through a network retail pharmacy, mail order, and specialty pharmacy. The broad objective is to ensure that all health plans are providing the information on various types of physical access to prescription drugs in a consistent and uniform manner by requiring compliance with subdivision (d)(12) of the formulary template. The specific benefits are ensuring enrollees have access to prescription drugs and helping them compare different formularies and determine the level of accessibility of prescription drugs available through different types of pharmacy options.

Subdivision (d)(13) requires a detailed description of the process for an enrollee to request a prescription drug prior authorization or step therapy exception. The broad objective is to ensure that all health plans provide prior authorization and step therapy information in a consis-

tent and uniform manner by requiring compliance with subdivision (d)(13) of the formulary template. The specific benefit is providing enrollees with information regarding access to prescription drugs that may not be as easily available as other types of prescription drugs through their health plan formulary. This subdivision also implements Health and Safety Code section 1367.205, subdivisions (b)(2)(A) and (D). These subdivisions of the Health and Safety Code require health plans to provide information regarding prior authorization and step therapy processes. Also, in its study on enrollees and prescription drug, the CHCF identified enrollees' lack of familiarity with the prescription drug exception and appeals processes and enrollees' ability to easily locate this information in existing formularies as obstacles to obtaining prescription drugs.[11] This subdivision helps by requiring health plans to provide such information in a consistent, clear, and uniform manner.

Subdivision (d)(14) requires health plans to provide information on the meaning of step therapy. The broad objective is to ensure that all health plans are providing information on step therapy in a consistent and uniform manner by requiring compliance with subdivision (d)(14) of the formulary template. The specific benefit is implementing Health and Safety Code section 1367.205, subdivision (b)(2)(A), by requiring notification of an enrollee's rights regarding step therapy and the method for obtaining prescription drugs through the step therapy process. Another specific benefit is ensuring that enrollees are educated on an important right of obtaining their prescription drug coverage, even when it is not as easily accessible. Step therapy can be a confusing process and enrollees need to better understand their rights to obtain certain types of prescription drugs under the step therapy process.

Subdivision (d)(15) requires notification of coverage of prescription drugs previously approved for the enrollee's medical condition if certain criteria are met. The broad objective is to ensure that all health plans are providing this notification in a consistent and uniform manner by requiring compliance with subdivision (d)(15) of the formulary template. The specific benefit is ensuring this vital enrollee right to their previous prescription drug benefits as enrollees may not be aware of this important means of access.

Subdivision (d)(16) provides information on the specific prescription drugs that are covered under a health plan's formulary. The broad objective is to ensure that all health plans are providing information on the covered prescription drug in a consistent and uniform manner by setting forth the specific information on coverage of prescription drugs and FDA−approved devices. The specific benefits are providing information that is essential to assist enrollees in a proper understanding of each health plan's available formularies and giving enrollees the ability to compare access to prescription drugs between health plans.

Subdivision (d)(17) requires health plans to set forth any limit on cost sharing for orally administered anti−cancer drugs. The broad objective is ensuring all health plans are setting forth the cost sharing limits in a consistent manner by requiring specific information on cost sharing be included in the formulary. The specific benefits are implementing Health and Safety Code section 1367.205, subdivision (b)(2)(A), requiring health plans set forth any limit on cost sharing for orally administered anti−cancer drugs and assisting enrollees in determining their cost sharing for specific types of prescription drugs by noting the information in the formulary. The CHCF reported affordability of monthly premiums and other out−of−pocket costs as the foremost consideration in purchasing healthcare coverage.[12] This subdivision will specifically assist enrollees in understanding their cost amounts for certain types of prescription drugs.

Subdivision (d)(18) requires health plans to list any prescription drugs limited to specialty pharmacy or other network access limitations. The broad objective is ensuring all health plans provide enrollees with information on any limitations to accessibility and network coverage in a consistent and uniform manner. The specific benefit is providing important information to enrollees in understanding their access to prescription drug benefits. This provision of the regulation ensures that enrollees can compare formularies of different health plans and determine the necessary level of accessibility to their prescription drugs. This information may factor into which health product the enrollee chooses.

Subdivision (d)(19) requires an annotated legend or key to all abbreviations, symbols and notations used in a health plan formulary. The broad objective is ensuring all abbreviations, symbols and notations are used in a consistent and uniform manner by health plans when used in a formulary. The specific benefit is ensuring that enrollees understand all the abbreviations, symbols, and notations that health plans are using and the definitions of those abbreviations, symbols, and notations. Also, this information is a way to increase enrollee accessibility and understanding of formularies.

Subdivision (e) provides directions on how prescription drugs should be listed in a health plan formulary in the "categorical list of prescription drugs" section. The broad objective is to ensure that all health plans are listing the prescription drugs in a consistent and uniform manner by providing specific directions on how the pre-

[11] Adams, "Hidden From View," pages 7 and 9.

[12] Adams, "Hidden From View," page 4.

scription drugs should be classified. The specific benefits are that this information is important in creating a formulary that is comparable for all health plans and provides enrollee with better access and understanding of their prescription drug coverage as the prescription drugs will be listed in a specific manner.

Subdivision (e)(1) states how health plans must organize the categorical list of prescription drugs available in a formulary. The broad objective is requiring all health plan formularies are comparable by requiring their organization of the prescription drug benefits available to enrollees in a consistent manner. The specific benefits are a more accessible and understandable formulary for enrollees.

Subdivision (e)(2) requires a formulary to contain brand and generic names as well as, where possible, a plain language description of the prescription drugs. The broad objective is requiring a consistent and uniform listing of generic and brand name drugs by setting forth the requirement in subdivision (e)(2) of the regulation. The broad objective is also creating a formulary that is comparable by requiring specific information be included by all health plans. The specific benefits are an easily understandable formulary, uniform explanation on how a formulary works, and informing enrollees of the types of prescription and non−prescription drugs available for certain conditions. This subdivision also implements Health and Safety Code section 1367.205, subdivisions (b)(2)(E), which requires a formulary include information on which medications are covered, including both generic and brand name.

Subdivision (e)(3) requires specific headings for each column of a formulary. The broad objective is that this type of consistent format is important in creating a formulary that is comparable by enrollees. The specific benefit is that it provides better accessibility and understanding to enrollees regarding what prescription drugs are covered through a consistent organizational structuring of the formulary.

Subdivision (e)(4) lists how health plans must provide the prescription drug names in the first column, which is labeled "Prescription Drug Name." The broad objective is to ensure that all health plans display consistent formatting of their formulary. The specific benefits are better accessibility and understanding for enrollees regarding what prescription drugs are covered as well as creating a formulary that is easily comparable between health plans.

Subdivision (e)(5) requires health plans to place information regarding utilization controls and limits to prescription drugs in a particular column of a formulary. The broad objective is ensuring health plan formularies are organized uniformly as all health plans are required to list formulary information in a consistent format. The specific benefit is the formulary will contain information helpful to an enrollee's understanding of prescription drug coverage under the health plan formulary. This subdivision of the regulation implements Health and Safety Code section 1367.205, subdivision (b)(2)(A), requiring the formulary contain information on health plan access and utilization controls.

Subdivision (e)(6) requires health plans to provide specific information in the "Drug Tier'' column. The broad objective is creating a formulary that is comparable for all health plans by requiring the formulary contain similar information. The specific benefits are that it provides accessibility and transparency of an enrollee's prescription drug coverage by requiring consistent formulary information organized in an understandable manner. This subdivision of the regulation clarifies and implements Health and Safety Code section 1367.205, subdivision (b)(2)(F), requiring a formulary contain tier information for prescription drugs.

Subdivision (e)(7) requires health plans to provide specific information in the "Coverage Requirements and Limits" column. The broad objective is creating a comparable formulary format to ensure similar information is organized in a consistent manner under the regulation. The specific benefit is creating a standard formulary format for enrollees that is accessible and easily understood. This subdivision of the regulation also clarifies and implements Health and Safety Code section 1367.205, subdivision (b)(2)(A), which requires a formulary contain information on cost sharing and utilization control.

Subdivision (e)(8) requires an annotated legend or key to all abbreviations, symbols and notations used in a formulary. The broad objective is creating a formulary that is comparable as all abbreviations, symbols and notations are defined. The specific benefit is ensuring enrollees have a clear understanding of the complete formulary. Providing explanation of abbreviations, symbols, and notations is a simple way to increase accessibility and understanding of health plan formularies. [13]

Subdivision (f) requires an index to the formulary. The broad objective is to require all health plans provide an index in a consistent and uniform manner by having an index for a formulary. The specific benefit is to help enrollees locate their prescription drugs in an accessible and understandable manner.

COMPARISON WITH EXISTING REGULATIONS

The regulation proposed in this rulemaking action is neither inconsistent nor incompatible with existing state regulations. The Department compared the following related existing regulations, CCR, title 28, sections 1300.67.24 and 1300.67.241, and found no incon-

[13] Adams, "Hidden From View," page 9.

sistencies or incompatibilities with the proposed regulation.

ALTERNATIVES CONSIDERED

1. Centers for Medicare and Medicaid Services, Prescription Drug Plan Formulary, Pharmacy Network and Information Files

Pursuant to Health and Safety Code section 1367.205, subdivision (a)(3), the Department considered information published by the Centers for Medicare and Medicaid Services (CMS). The Department utilized this information during the drafting of the proposed regulation and during the discussions with consumers and stakeholders regarding the proposed regulation. The CMS approach to a formulary template as a whole is not a reasonable alternative to the template proposed by this regulation. The biggest drawback of the CMS approach is that it is specifically adapted for Medicare Part D determinations. Health and Safety Code section 1367.205 requires that the formulary template be used by every health plan that provides prescription drug benefits. The CMS template does not offer sufficient flexibility in its format or information requested to be used as a standard drug formulary by all health plans.

2. Information Obtained from Informal Public Hearing

The Department and the CDI drafted the proposed formulary template with input from stakeholder groups and jointly conducted pre−notice discussions pursuant to Government Code section 11346.45 and Health and Safety Code section 1367.205, subdivision (a)(3). Through written and verbal comments submitted during stakeholder workshops and the required public hearing presented by the stakeholders. Based on written and verbal comments from stakeholders, the Department and the CDI developed a formulary template that took into account the consumer and stakeholder input. The formulary template developed with substantial consumer and stakeholder input meets the demands of the individuals and businesses that will utilize the form on a daily basis.

Pursuant to Government Code section 11346.5, subdivision (a)(13), a rulemaking agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency (1) would be more effective in carrying out the purpose for which the action is proposed, (2) would be as effective and less burdensome to affected private persons than the proposed action, or (3) would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. As described in the Initial Statement of Reasons for this rulemaking action, the Department has not determined that any known alternatives meet the standards contained in Government Code section 11346.5, subdivision (a)(13), described above.

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

PURPOSE OF THE REGULATION

The regulation implements section 1367.205, requiring the creation of a standard prescription drug formulary template by the Department and CDI. Specifically, section requires: (1) health plans to post a formulary or formularies for each product offered by the health plans on their websites in a manner that is accessible and searchable by an enrollee; (2) health plans to update all formularies with any changes on a monthly basis; and (3) the Department to develop a standard formulary template containing specific provisions related to the formulary.

The regulation serves an important purpose in increasing transparency in the area of health plan prescription drugs through a consumer friendly standardized formulary. This regulation requires health plans to publicly post on their websites complete prescription drug formularies for each of the health plans' products, including cost sharing tiers and utilization controls such as prior authorization and step therapy. Currently, health plans do not use a common organizational structure for formularies, making comparisons difficult. Many health plans post only their most "commonly prescribed drugs," not the entire list of pharmaceutical drugs covered under the prescription drug benefit. The requirements of this regulation will assist enrollees, especially those with chronic conditions who rely on prescription drugs to manage their illness, make an easier comparison of prescription drug coverage among health plans.

Most enrollees base their choice of coverage on affordability of monthly premiums, access to covered drugs, and out−of−pocket costs. However, when attempting to read formularies, enrollees find it difficult to locate specific drugs, understand the terms that impact their prescription drug coverage, or compare different formularies. The Department seeks to alleviate some of the challenges enrollees face today by requiring a standardized formulary, which will allow enrollees to compare formularies from different health plans as well as more easily find information. In addition, including information regarding step therapy and the exception request process in a formulary will eliminate the number of documents enrollees must review in

order to understand their full rights under their health plan's prescription drug coverage.

SUMMARY OF FISCAL IMPACT

- Mandate on local agencies and school districts: None.
- Cost or Savings to any State Agency: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Costs to private persons or businesses directly affected: The Department has determined that this regulation will have cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. As described in the Economic Impact Assessment in the Initial Statement of Reasons for this rulemaking action, there is an impact on 49 health plans. The impact on businesses (health plans) is estimated to be $608,689, or approximately $12,422 (rounded down) per health plan.
- Effect on Housing Costs: None.
- Other non−discretionary cost or savings imposed upon local agencies: None.

DETERMINATIONS

The Department has made the following initial determinations:

- The Department has determined the regulation will not impose a mandate on local agencies or school districts, nor are there any costs requiring reimbursement by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The Department has determined the regulation will have no significant effect on housing costs.
- The Department has determined the regulation does not affect small businesses. Health care service plans are not considered a small business under Government Code section 11342.610, subdivisions (b) and (c).
- The Department has determined the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Please see the Economic Impact Assessment in the Initial Statement of Reasons for this rulemaking action for additional information about this initial determination.
- The Department has determined that this regulation will have no cost or savings in federal funding to the state.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS
(Government Code sections 11346.3(b), 11346.5(a)(10))

The Initial Statement of Reasons for this rulemaking action describes the basis for the following Economic Impact Analysis results:

- **Creation or Elimination of Jobs Within the State of California**

This regulation is designed to assist health plans and enrollees in understanding their prescription drug coverage and help enrollees review different formularies. Accordingly, the Department has determined that no new jobs will be created or eliminated in the state of California as a result of the regulation. This regulation pertains to a narrow subset of health care benefits — prescription drugs — and is required pursuant to Health and Safety Code section 1367.205.

- **Creation of New Businesses or Elimination of Existing Businesses Within the State of California**

This regulation is designed to assist health plans and enrollees in determining their prescription drug coverage as well as to help the enrollees easily review and compare the different formularies of health plans. This regulation impacts the health care industry and enrollees. Accordingly, the Department determined the proposed regulation will neither create new businesses nor eliminate existing businesses.

- **Expansion of Businesses Currently Doing Business Within the State of California**

This regulation is designed to assist health plans and enrollees in determining their prescription drug coverage as well as to help the enrollees easily review and compare the different formularies of health plans. This regulation impacts the health care industry and enrollees. Accordingly, the Department determined the proposed regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

- **Benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment**

This regulation is designed to assist health plans and enrollees in determining their prescription drug cover-

age as well as to help the enrollees easily review and compare the different formularies of health plans. This regulation impacts the health care industry and enrollees. This regulation will not adversely affect the health and welfare of California residents, worker safety, or California's environment.

Accordingly, as described above, the proposed regulation benefits the health and welfare of California residents by providing health plan enrollees with uniform prescription drug formularies and an easier and more clear process for enrollees to review and understand their prescription drug coverage.

BUSINESS REPORT

This rulemaking package implements the provisions of SB 1052 and gives direction to health plans for their prescription drug formulary template to better assist enrollees in understanding their prescription drug coverage. The need for this regulation to apply to businesses is necessary for the health, safety or welfare of the people of the State of California.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
Miners Creek, Scott Valley, Siskiyou County, CA
BDA Project
(Tracking Number: 1653−2018−028−001−R1)
Siskiyou County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on September 18, 2018, that the Scott River Watershed Council proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the installation of 3 new Beaver Dam Analogues (BDAs) in order to improve fish habitat, passage, and spawning conditions, as well as improving groundwater recharge. The proposed project will be carried out on Miners Creek, located at 6325 Miners Creek Rd., Etna, Siskiyou County, California.

On July 19, 2018, 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 Miners Creek, Scott Valley, Siskiyou County, CA BDA Project. The Regional Water Board determined that the Project, as described in the NOI, 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. 1A180133WNSI; ECM PIN No. CW−850620) for coverage under the General 401 Order on September 11, 2018.

The Scott River Watershed Council 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 Scott River Watershed Council will have the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

Project: Lawrence Creek Off−Channel Pond 2.0 Project
Location: Humboldt
Applicant: Trout Unlimited

Background

Project Location: The Lawrence Creek Off−Channel Pond 2.0 Project (Project) is located at Lawrence Creek, approximately nine miles north of Highway 36 on Lawrence Creek Mainline Road in Humboldt County, at a property owned by Humboldt Redwood Company, Assessor Parcel Numbers (APN) 314−075−004−000 and 314−076−002−000, and affects an unnamed tributary to Lawrence Creek. The unnamed tributary to Lawrence Creek supports populations of coho salmon and Chinook salmon.

Project Description: Trout Unlimited (Applicant) proposes to enhance or restore habitat within an unnamed tributary to Lawrence Creek to provide a net conservation benefit for coho salmon (*Oncorhynchus kisutch*) and Chinook salmon (*O. tshawytscha*). The Project includes improving and increasing hydrologic connectivity to off channel pond habitat features. The objectives of the proposed project (referred to as

Lawrence 2.0), is to enhance 260 feet of channel within an unnamed (Class II) watercourse that currently provides limited access to a shallow off−channel pond located on the floodplain of Lawrence Creek. In addition to enhancing the channel and pond features, this project will also install up to 45 pieces of large wood (primarily rootwads) in the form of grade control logs, complex woven log jams, or trenched rootwad structures. The placement of large wood will provide complex cover for juvenile salmonids and help reduce density related competition.

Landowner fisheries biologists have observed coho salmon utilizing the unnamed tributary in the previous two years while the tributary was wetted.

Pacific Watershed Associates prepared the Project design that National Marine Fisheries Service Engineering and California Department of Fish and Wildlife's (CDFW) Fisheries staff reviewed and approved. Detailed Project plans, discussion of proposed work, species protection measures, site photos and maps are on file with CDFW's Habitat Conservation Planning Branch.

Project Size: The total area of ground disturbance associated with the Project is approximately 1.36 acres and 395 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: 41 pieces of large woody debris.

Project Timeframes:
Start date: September 2018
Completion date: October 2022
Work window: September 16− October 31

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and rearing habitat, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WOID) No. 1B180100WNHU, Electronic Content Management Identification (ECM PIN) No. CW−849374 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to coho and Chinook salmon.

Receiving Water: Unnamed tributary to Lawrence Creek, tributary to Yager Creek.
Filled or Excavated Area:
Permanent area impacted: none
Temporary area impacted: 1.36 acres maximum
Length permanently impacted: none
Length temporarily impacted: 395 linear feet
Project Size: 1.36 acres and 395 linear feet

Discharge Volume: 41 pieces of large wood including root wads.

Project Location: Downstream: Latitude: 40.610933 N and Longitude −123. 986661 W Upstream: Latitude: 40.610284 N and Longitude −123.987162 W (NAD 83)

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On August 20, 2018, the Director of CDFW received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on August 21, 2018, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z− 2018−08212−08) on August 31, 2018. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non−habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section

1653, subdivision (b)(4) were included in an attachment to the NOI. The specific avoidance and minimization requirements are found in an attachment to the NOI, V. Part F *Avoidance and Minimization Methods.* Supplemental avoidance and/or minimization measures to protect foothill yellow−legged frogs are included in the Attachment and include the following categories: 1) Conduct a Pre−Project Breeding Survey 2) Conduct a Pre−Construction Survey 3) Construction Monitoring 4) Reporting Instructions 5) Decontamination Protocol.

Monitoring and Reporting

Pursuant to Fish and Game Code section 1653 subdivision (g), the Applicant has submitted a Monitoring and Reporting Plan.

Monitoring Plan: Prior to construction, Applicant will establish photo−monitoring points that capture the majority of the project work area. Applicant may use pre− and post−restoration photographs combined with measurements at multiple staff gages to show floodplain inundation extent throughout the project area during peak flows. Applicant will deploy Data loggers during periods of off channel pond inundation. When data loggers cannot be deployed effectively, Applicant may use photographs and measurements at staff gages to document basic project effectiveness. Loggers will be checked/downloaded once per month.

The Project Team will use restoration designs and post−construction as−built surveys or drawings to determine whether the restoration effort met its target elevations. Restoration designs will show all relevant existing and proposed and final elevations and cross sections of structures, channels, wetlands, and floodplains. Applicant will survey as−built drawings into a known elevation benchmark and reference the as−built drawings to a standard geodetic datum.

Additionally, Applicant will monitor the pond outlet elevations and configurations monthly including:

- measurements at the elevation of the outlet
- measurements of the pond water level and Lawrence Creek water level

Reporting Plan: Applicant will report Tier I Hydrologic Reconnection data in standard progress reports as required by NMFS. Submittals will include project site descriptions as well as specific project metrics.

Monitoring Report (Due May 20, 2019)

1. A project description which will include the following:

- A project problem statement
- The project goals and objectives (including target species), etc
- The watershed context
- A description of the type of project and restoration techniques implemented
- The project dimensions, including as−builts and stream channel dimensions
- A description of construction activities (types of equipment, timing, staging areas or access roads required)
- The construction time period
- The materials that were used as part of the restoration action

2. Specific As−Built Project Metrics:

- Land Elevations:
- Water Levels: using hydrographs or photographs
- Annual Operating and Maintenance Costs: estimated for the next five−year period *

3. Validation Monitoring

- Description of water quality and fishery data results

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires that the Applicant submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes as a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDlD number and ECM PIN number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Applicant shall include the project name, WDID number, and ECM PIN number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: scott.monday@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW's approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures con-

tained in the approved NOA, and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & G. Code,§ 1654, subd. (c).)

DEPARTMENT OF FISH AND WILDLIFE

Project: Seldom Seen Diversion Fish Passage Improvement Project
Location: Siskiyou County
Applicant: Andrew Braugh representing California Trout

Notifier: AquaTerra Consulting

Background

Project Location: The Seldom Seen Diversion Fish Passage Improvement Project (Project) is located at is located at 41º32′37.58″, −122º22′36.05″, approximately 300 feet downstream of the outlet of the Montague Water Conservation District (MWCD) cross canal into the Shasta River and 760 feet downstream of Dwinnell Dam. The Shasta River supports populations of native fishes at the Project location.

Project Description: Andrew Braugh (Applicant), representing California Trout, proposes to enhance or restore habitat within the Shasta River by modifying an inactive instream diversion structure to provide fish passage. The Project includes construction of a roughened channel/riffle at the existing Seldom Seen Ranch Diversion concrete sill. The roughened channel will measure approximately 100 feet in length, by up to 15 feet wide. The riffle crest will extend beyond the active channel and will be approximately 60−feet wide and approximately two feet high, and will backwater the sill. The Applicant will revegetate the stream banks with native species of trees, shrubs, herbaceous perennials, grasses, sedges, and rushes.

Applicant will construct a 54−foot temporary rail car bridge and an approximately 275−foot gravel access road to access the Project. Within the lowest portion of the MWCD cross canal, Applicant will build a boulder grade control structure, or the construction contractor may elect to pump water around the grade control structure. In order to dewater the Shasta River during Project construction, Applicant will pipe water from the cross canal to approximately 200 feet below the concrete sill. Applicant will place a coffer dam at the end of the dewatered section to prevent back watering the construction site. Applicant will place block netting across the wetted channel on the downstream end of the proposed dewatered reach, to prevent fish from entering the Project area.

Project Size: According to the North Coast Regional Water Quality Control Board (Regional Water Board), the total area of ground disturbance associated with the Project is approximately 2.24 acres and 500 linear feet. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 100 cubic yards (cy) of boulders; (2) two cy of fine grained sediments; (3) approximately five pieces of large woody debris; and (4) 63 cubic feet of coir fabric.

Project Timeframes:
Start date: July, 2018
Completion date: October, 2018
lnstream Work Window: July 15 to October 15

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage, the Regional Water Board issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1A180084 WNSI, Electronic Content Management Identification (ECM PIN) No. CW−848704 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order.

Receiving Water: Shasta River, tributary to the Klamath River.

Impact Area:
Permanent area impacted: 0.034 acre
Temporary area impacted: 2.32 acres
Length temporarily impacted: 500 linear feet
(also includes 150 linear feet permanently impacted)
Length permanently impacted: 150 linear feet

Dredge Volume: None.

Discharge Volume: 2 cy of soil, 100 cy of boulders, 3,500 square feet (sf) of planted native vegetation, up to five pieces of large woody material, and 63 sf of coir fabric.

Project Location: Latitude: 41º32′37.58″ Longitude: −122º22′36.05″

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with

the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On August 22, 2018, the Director of CDFW received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on August 22, 2018, for publishing in the General Public Interest section of the California Regulatory Notice Register (File Number Z−2018−0824−02) on September 7, 2018. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is *not* part of a regulatory permit for a non−habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in Attachment A of the NOI, which contains the following categories: (1) General Avoidance and Minimization when Dewatering; and (2) Additional Avoidance and Minimization Measures: Construction Activities.

Monitoring and Reporting

Monitoring and Reporting Schedule:

- Notice of Completion Report: November 2018
- As−built Report and Post−Project Photo Points: February 2019

Applicant will submit an annual report to the Regional Water Board following the completion of each seasonal work period and upon project completion. This report will include the pre− and post−project monitoring findings and indicate whether performance standards have been achieved. Each report will include the following information:

- Summary of findings;
- Identification and discussion of problems with achieving performance standards;
- Proposed corrective measures as needed (requires Regional Water Board approval); and,
- Monitoring data.

Notice of Completion

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires that the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Applicant shall include the project name, WDID number, and ECM PIN number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: brad.henderson@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW's approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere. to all measures contained in the approved NOA, and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & G. Code,§ 1654, subd. (c).)

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING AND BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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

PUBLIC MEETING

On **November 15, 2018,** at 10:00 a.m.
in the Council Chambers of the Walnut Creek City Hall
1666 N. Main Street
Walnut Creek, California.

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

BUSINESS MEETING

On **November 15, 2018,** at 10:00 a.m.
in the Council Chambers of the Walnut Creek City Hall
1666 N. Main Street
Walnut Creek, California.

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

DISABILITY ACCOMMODATION NOTICE

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

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

DECISION NOT TO PROCEED

EMPLOYMENT DEVELOPMENT DEPARTMENT

Pursuant to Government Code Section 11347, the Employment Development Department (Department) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on October 6, 2017, Register 2017, No. 40−Z. The proposed rulemaking concerned the Occupational Employment Statistics Program Survey.

Any interested person with questions concerning this rulemaking should contact Taran Kaler at either 916−654−8410 or by e−mail at: Taran.Kaler@edd.ca.gov.

The Department will also publish this Notice of Decision Not to Proceed on its website.

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# 2018−0907−01
BOARD OF PHARMACY
Compounded Drug Preparations

This action readopts the prior emergency action that established procedures allowing pharmacists to extend the beyond−use date (BUD) for non−sterile compound-

ed drug preparations and clarified BUD procedures for sterile compounded drug preparations. (See OAL file nos. 2017−1211−01E, 2018−0607−01EE.)

Title 16
AMEND: 1735.2
Filed 09/17/2018
Effective 09/17/2018
Agency Contact: Lori Martinez (916) 574−7917

File# 2018−0802−02
BOARD OF STATE AND COMMUNITY CORRECTIONS
Minimum Standards for Local Detention Facilities

This rulemaking action by the Board of State and Community Corrections amends five sections to include new procedural requirements related to sexual abuse and sexual harassment. This action also includes requirements related to data collection, classification of inmates, and provision of health care for inmates that have been the victim of sexual abuse and sexual harassment.

Title 15
AMEND: 1006, 1029, 1041, 1050, 1069, 1206
Filed 09/13/2018
Effective 01/01/2019
Agency Contact: Ginger Wolfe (916) 323−8621

File# 2018−0801−05
BUREAU OF AUTOMOTIVE REPAIR
Electronic Documentation and Authorization

This action by the Bureau of Automotive Repair specifies procedures related to customer authorizations and records maintained by automotive repair dealers.

Title 16
ADOPT: 3353.1, 3353.2, 3354, 3355, 3357
AMEND: 3303, 3352, 3353, 3356, 3358, 3371
REPEAL: 3356.1, 3359, 3355
Filed 09/13/2018
Effective 09/13/2018
Agency Contact: Brian Clark (916) 403−8560

File# 2018−0803−02
CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY
Residential Energy Efficiency Loan Assistance Program

This action makes permanent the emergency regulations adopted in OAL no. 2017−0823−04E, and readopted in OAL nos. 2018−0222−01EE and 2018−0522−01EE, which revised and updated provisions related to the Residential Energy Efficiency Loan ("REEL") Assistance Program.

Title 4
AMEND: 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7, 10091.8, 10091.9, 10091.10, 10091.11, 10091.12, 10091.13, 10091.14, 10091.15
Filed 09/17/2018
Effective 09/17/2018
Agency Contact: Susan Mills (916) 651−3760

File# 2018−0906−01
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Appeals Regulations

This emergency action by the Department of Tax and Fee Administration is the first readoption of prior emergency regulations (file no. 2018−0308−01EFP) governing appeal procedures for various taxes and fees administered by the department. Pursuant to Government Code section 15570.40, this action is deemed an emergency and exempt from OAL review.

Title 18
ADOPT: 35001, 35002, 35003, 35004, 35005, 35006, 35007, 35008, 35009, 35010, 35011, 35012, 35013, 35014, 35015, 35016, 35017, 35018, 35019, 35020, 35021, 35022, 35023, 35024, 35025, 35026, 35027, 35028, 35029, 35030, 35031, 35032, 35033, 35034, 35035, 35036, 35037, 35038, 35039, 35040, 35041, 35042, 35043, 35044, 35045, 35046, 35047, 35048, 35049, 35050, 35051, 35052, 35053, 35054, 35055, 35056, 35057, 35058, 35060, 35061, 35062, 35063, 35064, 35065, 35066, 35067, 35101
AMEND: 1032, 1124.1, 1249, 1336, 1422.1, 1705.1, 2251, 2303.1, 2433, 3022, 3302.1, 3502.1, 4106, 4703, 4903, 5200, 5202, 5210, 5211, 5212, 5212.5, 5213, 5214, 5216, 5217, 5218, 5219, 5220, 5220.4, 5220.6, 5221, 5222, 5222.4, 5222.6, 5223, 5224, 5225, 5226, 5227, 5228, 5229, 5230, 5231, 5231.5, 5232, 5233, 5234, 5234.5, 5235, 5236, 5237, 5238, 5240, 5241, 5242, 5244, 5245, 5246, 5247, 5248, 5249, 5249.4, 5249.6, 5260, 5261, 5262, 5263, 5264, 5265, 5266, 5267, 5268, 5700
REPEAL: 1807, 1828, 4508, 4609, 4700, 4701, 4702, 5201, 5210.5, 5215, 5215.4, 5215.6, 5232.4, 5232.8, 5239, 5243, 5250, 5255, 5256
Filed 09/17/2018
Effective 09/17/2018
Agency Contact: Richard Bennion (916) 455−2130

File# 2018−0803−03
CALIFORNIA HEALTH BENEFIT EXCHANGE
Application, Eligibility, and Enrollment in the SHOP Exchange

The California Health Benefit Exchange (Exchange) submitted this certificate of compliance action to make permanent emergency regulations providing policies

and procedures for the application for coverage, employer and employee eligibility determination and redetermination, enrollment in qualified health plans, and termination of coverage through the Exchange's Small Business Health Options Program (SHOP).

Title 10
ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6536, 6538
Filed 09/17/2018
Effective 09/17/2018
Agency Contact:
Faviola Ramirez−Adams (916) 228−8668

File# 2018−0910−03
CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY
Children's Hospital Program of 2008

The California Health Facilities Financing Authority submitted this emergency readoption action to keep in effect emergency regulations that established a new timeframe and application form for a second round of funding authorized by the Children's Hospital Bond Act of 2008. These funds are to be awarded to eligible children's hospitals for capital improvements and special medical equipment.

Title 4
AMEND: 7051, 7054, 7055, 7056, 7063, 7071
Filed 09/18/2018
Effective 09/26/2018
Agency Contact:
Carolyn Aboubechara (916) 653−3213

File# 2018−0907−02
DEPARTMENT OF FOOD AND AGRICULTURE
Guava Fruit Fly Eradication Area

This emergency rulemaking action by the Department of Food and Agriculture amends the Guava Fruit Fly Eradication Area to include Ventura County. Upon establishment of the eradication areas in Ventura County, the Department will perform detection, control and eradication activities.

Title 3
AMEND: 3591.13
Filed 09/12/2018
Effective 09/12/2018
Agency Contact: Rachel Avila (916) 403−6813

File# 2018−0911−01
DEPARTMENT OF FOOD AND AGRICULTURE
Peach Fruit Fly Eradication Area

This emergency regulatory action amends section 3591.12(a) by adding the entire county of Ventura to the list of counties proclaimed to be eradication areas with respect to the peach fruit fly (Bactrocera zonata). The effect of the amendment provides authority for the state to perform eradication activities against the peach fruit fly within Ventura county.

Title 3
AMEND: 3591.12
Filed 09/12/2018
Effective 09/12/2018
Agency Contact: Rachel Avila (916) 403−6813

File# 2018−0802−03
DEPARTMENT OF MANAGED HEALTH CARE
Average Contracted Rate Methodology and Default Rate

The Department of Managed Health Care proposed this action to adopt a regulation that specifies a standardized methodology that health care service plans and their delegated entities are required to use to compute the average contracted rate for reimbursement of health care services that are most frequently subject to Health and Safety Code section 1371.9, provided by noncontracting health professionals, in compliance with Health and Safety Code section 1371.31, which was enacted by A.B. 72 (Stats.2016, c. 492). The proposed regulation further clarifies key terms and concepts relevant to proper reimbursement of noncontracting health professionals, and makes conforming amendments to an existing regulation on claims settlement practices.

Title 28
ADOPT: 1300.71.31 AMEND: 1300.71
Filed 09/13/2018
Effective 01/01/2019
Agency Contact: Jennifer Willis (916) 324−9014

File# 2018−0802−05
DEPARTMENT OF PESTICIDE REGULATION
Licensing Forms

This filing of changes without regulatory effect by the Department of Pesticide Regulation amends provisions to update the revision date of forms incorporated by reference and makes non−substantive changes to four licensing forms incorporated by reference, such as correcting grammar and punctuation, and eliminating redundant and repetitive instructions.

Title 3
AMEND: 6502
Filed 09/13/2018
Agency Contact: Lauren Otani (916) 445−5781

File# 2018−0803−01
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
Electronic Waste Recovery and Recycling

This certificate of compliance action submitted by the Department of Resources Recycling and Recovery (CalRecycle) makes permanent the prior emergency actions (OAL File Nos. 2015−0812−01E and 2017−0724−01EE) that amended six sections to revise criteria and conditions regarding the disposition of cathode ray tube (CRT) glass derived from the processing of certain covered electronic waste. This action also makes permanent the prior emergency actions (OAL File Nos. 2015−0925−02E and 2017−0817−01EE) that adopted three sections and amended one section to implement a process for CalRecycle to exercise its authority to impose civil liabilities for violations of the Electronic Waste Recycling Program. Additionally, this action amends twenty one sections to update existing electronic waste recovery and recycling requirements.

Title 14
ADOPT: 18660.44, 18660.45, 18660.46 AMEND: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.12, 18660.13, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.20, 18660.21, 18660.22, 18660.24, 18660.25, 18660.30, 18660.31, 18660.32, 18660.33, 18660.35, 18660.36, 18660.37, 18660.39, 18660.41
REPEAL: 18660.23
Filed 09/17/2018
Effective 10/01/2018
Agency Contact: Meagan Wilson (916) 341−6077

File# 2018−0808−01
FRANCHISE TAX BOARD
Assignment of Credits to Combined Group Members

This action establishes a process for addressing defective elections to assign tax credits between affiliated corporations. The adopted regulations establish how credits are allocated when a defective election has occurred and provide flexibility in determining how credits are allocated when there is agreement between the parties involved in a defective election. The regulations also give tax payers one year to correct certain errors in defective elections.

Title 18
ADOPT: 23663−1, 23663−2, 23663−3, 23663−4, 23663−5
Filed 09/18/2018
Effective 09/18/2018
Agency Contact: Christy Keith (916) 845−6080

File# 2018−0801−03
SECRETARY OF STATE
Secretary of State Electronic Business Filings

This action establishes requirements for accepting and processing online business filings and requests for information by California business entities.

Title 2
ADOPT: 21902, 21903.6 AMEND: 21902 (renumbered to 21901), 21903, 21904, 21905, 21905.5
Filed 09/13/2018
Effective 09/15/2018
Agency Contact: Jesse Mattson (916) 695−1206

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN April 18, 2018 TO September 19, 2018

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 1

05/21/18	AMEND: 44

Title 2

09/13/18	ADOPT: 21902, 21903.6 AMEND: 21902 (renumbered to 21901), 21903, 21904, 21905, 21905.5
09/11/18	AMEND: 1859.77.3
08/02/18	ADOPT: 59830
08/01/18	AMEND: 58200
07/17/18	REPEAL: 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2700, 2701, 2702, 2703, 2704, 2705
07/03/18	ADOPT: 18308, 18308.1, 18308.2, 18308.3
06/21/18	AMEND: 1859.190, 1859.194, 1859.195, 1859.198
06/19/18	AMEND: 554.7
05/17/18	ADOPT: 11027.1 AMEND: 11028
05/16/18	ADOPT: 20150, 20151, 20152, 20153, 20154, 20155, 20156, 20157, 20158, 20159, 20160, 20161, 20162, 20163, 20164, 20165
05/09/18	AMEND: 321
05/09/18	AMEND: 11034
04/25/18	AMEND: 18401
04/25/18	AMEND: 18450.1

04/23/18 ADOPT: 1859.90.4 AMEND: 1859.2, 1859.90, 1859.90.2, 1859.90.5

Title 3

09/13/18 AMEND: 6502
09/12/18 AMEND: 3591.13
09/12/18 AMEND: 3591.12
09/06/18 AMEND: 3601
08/22/18 AMEND: 3591.2
08/16/18 ADOPT: 5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015
08/10/18 AMEND: 1380.19, 1430.10, 1430.12, 1430.13, 1430.50, 1430.51, 1430.53
08/02/18 AMEND: 3591.2
07/31/18 AMEND: 3
07/19/18 AMEND: 3591.2
06/28/18 AMEND: 3435(b)
06/21/18 AMEND: 3439(b)
06/21/18 AMEND: 3591.5
06/18/18 AMEND: 1280.11
06/04/18 ADOPT: 8000, 8100, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8200, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8210, 8211, 8212, 8213, 8214, 8215, 8216, 8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8400, 8401, 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8500, 8501, 8600, 8601, 8602, 8603, 8604, 8605, 8606, 8607, 8608
05/30/18 AMEND: 3439(b)
05/24/18 AMEND: 3439(b)
05/24/18 AMEND: 6502
05/18/18 AMEND: 3439(b)
04/30/18 AMEND: 3439(b)

Title 4

09/18/18 AMEND: 7051, 7054, 7055, 7056, 7063, 7071
09/17/18 AMEND: 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7, 10091.8, 10091.9, 10091.10, 10091.11, 10091.12, 10091.13, 10091.14, 10091.15
08/22/18 ADOPT: 7213, 7214, 7215, 7216, 7218, 7219, 7220, 7221, 7222, 7223, 7224, 7225, 7227, 7228, 7229
07/26/18 AMEND: 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10190
07/18/18 AMEND: 2050
07/09/18 AMEND: 10325, 10326
07/03/18 AMEND: 10152, 10153, 10154, 10155, 10158 (amended and renumbered), 10159 (amended and renumbered), 10160 (amended and renumbered). REPEAL: 10156, 10157
07/02/18 ADOPT: 5700, 5710, 5711, 5720, 5721, 5722, 5730, 5731 AMEND: 5000, 5020, 5100
05/30/18 AMEND: 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7, 10091.8, 10091.9, 10091.10, 10091.12, 10091.13, 10091.14, 10091.15
05/25/18 AMEND: 5000, 5033, 5035, 5037, 5054, 5060, 5101, 5102, 5120, 5144, 5170, 5191, 5212, 5230, 5240, 5250, 5540 REPEAL: 5259
05/17/18 AMEND: 12590
05/15/18 AMEND: 12204, 12220, 12238, 12560
04/30/18 AMEND: 10170.2, 10170.3, 10170.4, 10170.5, 10170.6, 10170.7, 10170.9, 10170.10

Title 5

08/03/18 AMEND: 11517.6, 11518, 11518.15, 11518.20, 11518.25, 11518.30, 11518.35, 11518.40, 11518.45, 11518.50, 11518.70, 11518.75, 11519.5
07/23/18 AMEND: 40050.2, 40100.1, 40513, 40514, 41021
07/03/18 ADOPT: 71396, 71397, 71398, 71399
06/21/18 AMEND: 19810
06/07/18 AMEND: 19810
05/18/18 ADOPT: 11301, 11309, 11310, 11311, 11312 AMEND: 11300, 11316 REPEAL: 11301, 11309, 11310
05/08/18 AMEND: 75020
04/30/18 AMEND: 41906.5, 41906.6
04/30/18 AMEND: 42909

Title 8

05/30/18 AMEND: 1618.1
05/17/18 ADOPT: 11770, 11771, 11771.1, 11771.2, 11772, 11773
05/08/18 AMEND: 31001, 32020, 32030, 32040, 32050, 32055, 32060, 32075, 32080, 32085, 32090, 32091, 32100, 32105, 32120, 32122, 32130, 32132, 32135, 32136, 32140, 32142, 32145, 32147, 32149, 32150, 32155, 32162, 32164, 32165, 32166, 32168, 32169, 32170, 32175, 32176, 32178, 32180, 32185, 32190, 32200, 32205, 32206, 32207, 32209, 32210, 32212, 32215, 32220, 32230, 32295, 32300, 32305, 32310, 32315, 32320, 32325, 32350, 32360, 32370, 32375, 32380, 32400, 32410, 32450, 32455, 32460, 32465, 32470, 32500, 32602, 32605, 32612, 32615, 32620, 32621, 32625, 32630, 32635,

32640, 32644, 32645, 32647, 32648, 32649, 32650, 32661, 32680, 32690, 32700, 32720, 32721, 32722, 32724, 32726, 32728, 32730, 32732, 32734, 32735, 32736, 32738, 32739, 32740, 32742, 32744, 32746, 32748, 32750, 32752, 32754, 32761, 32762, 32763, 32770, 32772, 32774, 32776, 32980, 32990, 32992, 32993, 32994, 32995, 32996, 32997 REPEAL: 32036, 32037, 32610, 32611, 32806, 32808, 32810, 95000, 95010, 95020, 95030, 95040, 95045, 95050, 95070, 95080, 95090, 95100, 95150, 95160, 95170, 95180, 95190, 95200, 95300, 95310, 95320, 95330

05/08/18 AMEND: 9789.31, 9789.32, 9789.39
04/27/18 AMEND: 9789.25

Title 9

08/20/18 ADOPT: 4020, 4020.1
06/21/18 AMEND: 4350
05/17/18 AMEND: 3850, 3850.010
05/14/18 AMEND: 3560, 3560.010, 3560.020, 3705, 3726, 3735, 3750, 3755
05/08/18 ADOPT: 4020, 4020.1

Title 10

09/17/18 ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6536, 6538
08/31/18 ADOPT: 2218.80, 2218.81, 2218.82, 2218.83
06/13/18 AMEND: 2498.5
05/31/18 AMEND: 2715, 2728.5, 2752
05/22/18 AMEND: 2498.6
04/20/18 ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6538

Title 11

08/23/18 AMEND: 1004, 1005, 1081
08/15/18 AMEND: 1005, 1015
08/02/18 AMEND: 4002
07/31/18 AMEND: 49.18
06/21/18 AMEND: 1005
06/18/18 AMEND: 1005, 1007, 1008, 1052
06/13/18 ADOPT: 51.32
06/05/18 AMEND: 1005, 1007, 1008
06/05/18 ADOPT: 49.18
05/21/18 ADOPT: 5505, 5506, 5507, 5508, 5509, 5510, 5511, 5512, 5513, 5514, 5515, 5516, 5517, 5518, 5519, 5520, 5521, 5522

Title 12

07/05/18 AMEND: 451, 452, 453, 454, 455

Title 13

08/30/18 AMEND: 1213
08/30/18 AMEND: 1239
08/16/18 ADOPT: 25.23 AMEND: 25.06, 25.08, 25.09, 25.10, 25.11, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21, 25.22
07/23/18 ADOPT: 223.00. 223.02, 223.04, 223.06, 223.08, 223.10, 223.12, 223.14, 223.16
07/16/18 AMEND: 1151.1, 1152.4, 1152.4.1
06/12/18 ADOPT: 1231.3 AMEND: 1212.5, 1218, 1239, 1264
05/30/18 ADOPT: 125.19 AMEND: 125.00, 125.02 REPEAL: 127.06
05/07/18 AMEND: 423.00
04/26/18 AMEND: 1153
04/18/18 AMEND: 1151.9.1

Title 14

09/17/18 ADOPT: 18660.44, 18660.45, 18660.46 AMEND: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.12, 18660.13, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.20, 18660.21, 18660.22, 18660.24, 18660.25, 18660.30, 18660.31, 18660.32, 18660.33, 18660.35, 18660.36, 18660.37, 18660.39, 18660.41 REPEAL: 18660.23
09/06/18 AMEND: 1104.1
08/13/18 AMEND: 7.50
08/09/18 AMEND: 13055
07/30/18 ADOPT: 798 AMEND: 791, 791.6, 791.7, 792, 793, 794, 795, 796, 797
07/30/18 ADOPT: 820.02
07/30/18 ADOPT: 817.04 AMEND: 790
07/30/18 AMEND: 819, 819.01, 819.02, 819.03, 819.04, 819.05, 819.06, 819.07
07/19/18 AMEND: 3805.1
07/05/18 AMEND: 1038
07/02/18 AMEND: 916.9, 936.9, 956.9
06/28/18 ADOPT: 1726, 1726.1, 1726.2, 1726.3, 1726.3.1, 1726.4, 1726.4.1, 1726.4.2, 1726.4.3, 1726.5, 1726.6, 1726.6.1, 1726.7, 1726.8, 1726.9, 1726.10 REPEAL: 1724.9
06/28/18 AMEND: 18660.25, 18660.34
06/28/18 AMEND: 502
06/25/18 AMEND: 7.50
06/07/18 AMEND: 1760, 1774, 1774.1, 1774.2
05/24/18 ADOPT: 3803.1, 3803.2, 3803.3 AMEND: 3802, 3803
05/16/18 AMEND: 131
05/10/18 ADOPT: 29.11
05/09/18 AMEND: 18660.5, 18660.10, 18660.21, 18660.34
05/01/18 ADOPT: 650 AMEND: 703 REPEAL: 650
04/24/18 AMEND: 131

04/19/18 AMEND: 4800

Title 15

09/13/18 AMEND: 1006, 1029, 1041, 1050, 1069, 1206
08/20/18 AMEND: 3294.5
08/13/18 AMEND: 3000, 3190, 3213
08/06/18 ADOPT: 3999.98, 3999.99, 3999.320 AMEND: 3355, 3087 renumbered as 3999.225, 3087.1 renumbered as 3999.226, 3087.2 renumbered as 3999.227, 3087.3 renumbered as 3999.228, 3087.4 renumbered as 3999.229, 3087.5 renumbered as 3999.230, 3087.6 renumbered as 3999.231, 3087.7 renumbered as 3999.232, 3087.8 renumbered as 3999.233, 3087.9 renumbered as 3999.234, 3087.10 renumbered as 3999.235, 3087.11 renumbered as 3999.236, 3087.12 renumbered as 3999.237, 3350 renumbered as 3999.200(a), 3350.1 renumbered as 3999.200(b), (c), and (d), 3350.2 renumbered as 3999.200(f), (g), and (h), 3351 renumbered as 3999.210, 3353 renumbered as 3999.202, 3353.1 renumbered as 3999.203, 3354.2 renumbered as 3999.206, 3356 renumbered as 3999.410, 3357 renumbered as 3999.440, 3358 renumbered as 3999.375, 3359 renumbered as 3999.411, 3359.8 renumbered as 3999.200(e)
08/01/18 AMEND: 3350, 3350.1
06/28/18 AMEND: 3043.3
06/14/18 AMEND: 3000, 3075.1, 3075.2, 3075.3, 3521.1, 3521.2, 3720, 3763 REPEAL: 3800, 3800.1, 3800.2, 3800.3
06/13/18 ADOPT: 3087, 3087.1, 3087.2, 3087.3, 3087.4, 3087.5, 3087.6, 3087.7, 3087.8, 3087.9, 3087.10, 3087.11, 3087.12
06/07/18 ADOPT: 3371.1 AMEND: 3043.7, 3044 REPEAL: 3371.1
05/15/18 AMEND: 3000, 3030, 3190, 3269
05/01/18 ADOPT: 2449.1, 2449.2, 2449.3, 2449.4, 2449.5, 2449.6, 2449.7, 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), and 3044 REPEAL: 2449.2, 2449.3, 2449.5, 3042, 3043.1, 3043.2, 3043.3, 3043.4, 3043.7

Title 16

09/17/18 AMEND: 1735.2
09/13/18 ADOPT: 3353.1, 3353.2, 3354, 3355, 3357 AMEND: 3303, 3352, 3353, 3356, 3358, 3371 REPEAL: 3356.1, 3359, 3355
08/30/18 AMEND: 1399.573
08/29/18 AMEND: 1805.01, 1816, 1816.1, 1820, 1820.5, 1820.7, 1821, 1822, 1822.51, 1822.52, 1829.2, 1829.3, 1833, 1833.1, 1845, 1846, 1870, 1874, 1886
08/08/18 REPEAL: 1399.531, 1399.532
08/02/18 AMEND: 3340.17, 3340.41, 3340.45
08/01/18 AMEND: 2070, 2071
06/18/18 AMEND: 1735.2
06/14/18 REPEAL: 1399.620, 1399.621, 1399.622, 1399.623
06/07/18 AMEND: 321, 364
06/04/18 ADOPT: 5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028, 5029, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5041, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5053, 5054, 5055, 5300, 5301, 5302, 5303, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5410, 5411, 5412, 5413, 5414, 5415, 5416, 5417, 5418, 5419, 5420, 5421, 5422, 5423, 5424, 5425, 5426, 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5600, 5601, 5602, 5603, 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5710, 5711, 5712, 5713, 5714, 5715, 5716, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5726, 5727, 5728, 5729, 5730, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5800, 5801, 5802, 5803, 5804, 5805, 5806, 5807, 5808, 5809, 5810, 5811, 5812, 5813, 5814
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08/21/18 AMEND: 35083, 35087
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07/19/18 AMEND: 30305
07/19/18 AMEND: 6508
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08/07/18 ADOPT: 60301.120, 60301.850.5, 60301.851, 60301.852, 60301.853, 60320.300, 60320.301, 60320.302, 60320.304, 60320.306, 60320.308, 60320.312, 60320.320, 60320.322, 60320.326, 60320.328, 60320.330, 64668.05, 64668.10, 64668.20, 64668.30 AMEND: 60301.450
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06/20/18 ADOPT: 130000, 130001, 130003, 130004, 130006, 130007, 130008, 130009, 130020, 130021, 130022, 130023, 130024, 130025, 130026, 130027, 130028, 130030, 130040, 130041, 130042, 130043, 130044, 130045, 130048, 130050, 130051, 130052, 130053, 130054, 130055, 130056, 130057, 130058, 130062, 130063, 130064, 130065, 130066, 130067, 130068, 130070, 130071, 130080, 130081, 130082, 130083, 130084, 130090, 130091, 130092, 130093, 130094, 130095, 130100, 130110, 130200, 130201, 130202, 130203, 130210, 130211
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06/19/18 ADOPT: 3939.54
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