



California Regulatory Notice Register

REGISTER 2019, NUMBER 40-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

OCTOBER 4, 2019

PROPOSED ACTION ON REGULATIONS

TITLE 5. SUPERINTENDENT OF PUBLIC INSTRUCTION

Licensing Exemption for LEAs Operating California State

Preschool Program (CSPP) — Notice File Number Z2019-0924-01 1307

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

General Industry Safety Orders Sections 3420 and 3425: Tree Work,

Maintenance or Removal — Use of Portable Power Saws — Notice File Number Z2019-0923-01 1310

TITLE 11. DEPARTMENT OF JUSTICE

Controlled Substance Utilization Review and Evaluation

System (CURES) Database — Notice File Number Z2019-0924-04 1313

TITLE 11. DEPARTMENT OF JUSTICE

Self-Manufactured or Self-Assembled Firearms — Notice File Number Z2019-0920-01 1320

TITLE 16. OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

Postgraduate Training License Fee — Notice File Number Z2019-0924-02 1323

TITLE 17. AIR RESOURCES BOARD

Low Carbon Fuel Standard Regulation — Notice File Number Z2019-0917-09 1325

(Continued on next page)

*Time-
Dated
Material*

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Announcement of the Developmental and Reproductive Toxicant

Identification Committee Meeting Scheduled for December 11, 2019,

Notice of Availability of Hazard Identification Materials for Cannabis

(Marijuana) Smoke and Tetrahydrocannabinol (THC) and Notice of Public Comment Period 1332

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

15-day Modification, Proposition 65 Responsibility to Provide Consumer Product Exposure Warning 1333

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State 1334

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

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

**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 5. SUPERINTENDENT OF
PUBLIC INSTRUCTION**

AMENDMENT TO CALIFORNIA
CODE OF REGULATIONS,
TITLE 5, REGARDING LICENSING
EXEMPTION FOR LEAs OPERATING CSPP

NOTICE IS HEREBY GIVEN that the State Superintendent of Public Instruction (SSPI) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

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

PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SSPI, will hold a public hearing at 8:30 a.m. on November 18, 2019, at 1430 N Street, Room 1103, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SSPI requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

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

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request as-

sistance by contacting Danielle Sisneros, Early Learning and Care Division, 1430 N Street, Suite 3410, Sacramento, CA, 95814; telephone, 916-322-4883. It is recommended that assistance be requested at least two weeks prior to the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or that person's authorized representative, may submit written comments relevant to the proposed regulatory action to:

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

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

Comments must be received by the Regulations Coordinator prior to or on November 18, 2019. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

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

AUTHORITY AND REFERENCE

Authority: Sections 8261 and 17002, Education Code; Section 1596.7925, Health and Safety Code.

References: Sections 8208 and 17002, Education Code; and Sections 1596.792 and 1596.7925, Health and Safety Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The California Department of Education (CDE) has administered subsidized early learning and care services for children from infancy to 13 years of age and their parents since the Child Care and Development Services Act (Act) was established in 1980, chapter 2 of part 6 of the Education Code, starting at section 8200 et seq. The intent of the Act is that qualified subsidized early learning and care services be provided to children and families meeting the eligibility criteria established under the Act.

The California State Preschool Program (CSPP) as established by Education Code section 8235, provides three- and four-year-old children with a developmentally appropriate program designed to facilitate their transition to kindergarten. This program includes education, development, health services, social service, nutritional service, parent education and participation, evaluation, and staff development.

Pursuant to Health and Safety Code section 1596.792, child care and preschool programs are required to be licensed pursuant to title 22 of the California Code of Regulations (22 CCR), unless specifically exempted from such requirements.

Assembly Bill Number 99 (AB 99; Stats. 2017, ch. 15) authorized a CSPP operated in a LEA facility to be exempt from 22 CCR licensing requirements if the facility met all the following requirements:

1. Field Act compliance, as specified in article 3 (commencing with section 17280) and article 6 (commencing with section 17365) of chapter 3 of part 10.5 of division 1 of title 1 of, and article 7 (commencing with section 81130) of chapter 1 of part 49 of division 7 of title 3 of the Education Code.
2. The LEA facility is constructed consistent with the California Building Standards Code pursuant to title 24 of the California Code of Regulations (24 CCR).
3. The LEA facility meets the requirements for kindergarten classrooms in accordance with chapter 13 (commencing with section 14000) of division 1 of title 5 of the California Code of Regulations (5 CCR), and
4. The program meets all other requirements of CSPPs pursuant to chapter 19 (commencing with section 17906) of division 1 of 5 CCR.

In accordance with AB 99, the Legislative Analyst Office (LAO) convened a stakeholder workgroup to identify and make recommendations on any health and safety requirements currently required under 22 CCR, but not included in 5 CCR, the Field Act, 24 CCR, the

California Plumbing Code, the Education Code, or the Health and Safety Code, including but not limited to, all of the following:

1. Adequate outdoor shade structures
2. Access to age and developmentally appropriate bathroom and drinking water facilities
3. Appropriate process for parent notification and resolution of code and regulation violations

In accordance with AB 99, the LAO report on the stakeholder process and recommendations were published in the 2018–19 Budget: Proposition 98 Education Analysis, dated February 7, 2018.

Assembly Bill Number 1808 (AB 1808; Stats. 2018, ch. 32) codified the stakeholders' recommendations as follows:

1. Added Health and Safety Code section 1596.7925 requiring CDE to adopt new health and safety regulations under 5 CCR. These regulations apply to a CSPP operated in a LEA facility exempt from 22 CCR licensing requirements in accordance with subdivision (o) of Health and Safety Code section 1596.7925.
2. The regulations shall require those programs to have all of the following:
 - Outdoor shade that is safe and in good repair.
 - Drinking water that is accessible and readily available throughout the day.
 - Safe and sanitary restroom facilities with one toilet and handwashing fixture for every 15 children.
 - Restroom facilities that are only available for preschoolers and kindergartners
 - Visual supervision of children at all times.
 - Indoor and outdoor space that is properly contained or fenced and provides sufficient space for the number of children using the space at any given time. Playground equipment must be safe, in good repair, and age appropriate.

In accordance with AB 1808, the CDE issued emergency regulations that became effective July 1, 2019, and will expire on December 31, 2019.

**ANTICIPATED BENEFITS OF THE
PROPOSED REGULATION**

The benefits anticipated by the proposed regulations are the assurance of the continued health and safety of young children enrolled in these programs in the absence of licensure by the California Department of Social Services' Community Care Licensing Division so that preschool children are not subject solely to health and safety standards applicable to LEAs, typically in-

tended for an older age group. These regulations are specifically appropriate for a preschool environment operating in a larger environment of a school site in the K–12 system.

DETERMINATION OF
INCONSISTENCY/INCOMPATIBILITY WITH
EXISTING STATE REGULATIONS

An evaluation of the proposed regulations has determined they are not inconsistent/incompatible with existing regulations, pursuant to Government Code section 11346.5(a)(3)(D). After conducting a review for any regulations that would relate to or affect this area, the SSPI has concluded that these are the only regulations that concern the Licensing Exemption for LEAs Operating CSPPs in California.

DISCLOSURES REGARDING THE PROPOSED
ACTION/FISCAL IMPACT

The SSPI has made the following initial determinations:

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

Mandate on local agencies and school districts: None.

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

Cost or savings to any state agency: None.

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

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

Effect on housing costs: None.

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

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

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

Effect on small businesses: The proposed regulations would not have an effect on any small business because they are only relevant to the contractors of subsidized programs contracted through the CDE.

RESULTS OF THE
ECONOMIC IMPACT ANALYSIS

The SSPI concludes that it is unlikely that these proposed regulations will: 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Benefits of the Proposed Action: The proposed regulations will benefit children and families in California state preschool programs throughout the State. For additional benefit analysis, please see “Anticipated Benefits of the Proposed Regulation” found under the Informative Digest/Policy Statement Overview.

CONSIDERATION OF ALTERNATIVES

The SSPI must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SSPI 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.

CONTACT PERSONS

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

Guadalupe Romo–Zendejas, Administrator
Early Learning and Care Division
California Department of Education
1430 N Street, Room 3410
Sacramento, CA 95814
Telephone: 916–445–7349
Email: GRomozen@cde.ca.gov

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

INITIAL STATEMENT OF
REASONS AND INFORMATION

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

TEXT OF PROPOSED REGULATION AND
CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the in-

formation upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's website at <http://www.cde.ca.gov/re/lr/rr/>.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND INFORMATION

The SSPI has prepared an Initial Statement of Reasons for the proposed regulations. This document and the text of the proposed regulations may also be viewed and downloaded from the CDE's website at <http://www.cde.ca.gov/re/lr/rr/>. All of the information upon which the proposed action is based may be obtained upon request from the Regulations Coordinator.

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

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

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

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

**General Industry Safety Orders
Sections 3420 and 3425**

**Tree Work, Maintenance or Removal — Use of
Portable Power Saws**

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

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **November 21, 2019** in the **Auditorium** of the **Harris State Building on 1515 Clay Street, Oakland, CA 94612**. At this public hearing, any person may

present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **October 4, 2019** and closes at 5:00 p.m. on **November 21, 2019**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

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

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

AUTHORITY AND REFERENCE

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

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The proposed rulemaking seeks to clarify existing regulations that were affected by a rulemaking entitled Electrical Power Generation, Transmission, and Distribution; Electrical Protective Equipment: Final Rule, which was adopted by the Board on December 17, 2017 and became effective April 1, 2018.

Section 3425(a)(2) and (a)(5) were amended to be as effective as federal standard 29 CFR 1910.269(r)(5)(iv) and (vi). Adopting the federal language verbatim appeared to have created some confusion regarding drop starting and starting power saws at an elevation. 29 CFR 1910.266(e)(2)(vi) prohibits drop starting of chain saws and 29 CFR 1910.269(r)(5)(iv) only permits saws that are not chain saws to be drop started.

In order to improve clarity and safety, amendments to Sections 3420 and 3425 are being proposed. The proposal adds a definition of "drop starting" and clearly prohibits drop starting of chain saws. In addition, the application of the work practice to ensure that there are

no personnel below prior to starting a power saw is expanded to apply to all elevated work locations, not just while elevated on aerial lifts.

The specific changes are as follows:

Section 3420. Scope and Definitions.

Section 3420 contains the scope and definitions that apply to Article 12, Tree Work, Maintenance or Removal.

Subsection (b). Definitions.

The proposal adds a definition of the term “drop starting” using the federal interpretation of the term from the Response to Question Number 40 of the Federal OSHA Questions and Answers on 29 CFR 1910.269 and 29 CFR 1926, Subpart V at https://www.osha.gov/dsg/power_generation/QandAFinal.html. The addition of the definition of “drop starting” provides the meaning of the term and is necessary because the term “drop starting” or “drop started” is used in Section 3425.

Section 3425. Portable Power Hand Tools.

Section 3425 contains regulations regarding the use of portable hand tools including power saws. Chain saws are a subset of power saws.

Subsection (a). Power Saws.

The proposed amendments to subsection (a)(2) are as follows:

- Clarification of the method for starting a power saw by adding the words “held or” before the existing term “supported” and including the phrase “to prevent unintended movement of the saw” to specify the intent of the regulation.

The existing regulation requires that the power saws be started on the ground or otherwise firmly supported. However, depending on the type or size of the power saw, firmly holding the power saw prior to starting may be sufficient to prevent unintended movement.

- Deletion of the sentence “Drop starting of saws over 6.8 kilograms (15 pounds), other than chain saws, is permitted outside of the bucket of an aerial lift only if the area below the lift is clear of personnel.”

The existing regulation is proposed to be replaced with the clear prohibition for drop starting a chain saw regardless of size.

- Clarification of the existing regulation by specifying in a separate sentence that drop starting a chain saw is prohibited. This proposal is consistent with the goal of preventing unintended movement when starting the saw. The practice of drop starting is contrary to the work practice of starting the saw on the ground or when otherwise firmly supported.

The existing regulation only permits power saws, with the exception of chain saws, to be drop started. The person reading the regulatory text may inadvertently miss the requirement that chain saws are not permitted to be drop started. Therefore, this clarification makes the regulation more concise and easier to understand.

- Expansion of the scope of the existing regulation to require employees to make sure the area below is clear of personnel before starting a power saw at any elevated location.

The existing regulation requires employees using an aerial lift to make sure the area below the lift is clear of personnel prior to starting the saw. This existing requirement is proposed to be replaced with the proposal that workers at any elevated location (e.g. tree, scaffold, roof), not just on aerial lifts, ensure that there are no personnel below prior to starting the power saw. This proposal is necessary to prevent injuries in the event the operator accidentally drops the saw while in the process of starting the saw.

The proposed amendment to subsection (a)(6) is as follows:

- The proposal relocates existing subsection (a)(6) to new subsection (a)(3) to provide better organization of the power saw requirements. This relocation facilitates the planning of the work by making the reader immediately aware of the need to secure power saws heavier than 15 pounds. As a result of this relocation, existing subsections (a)(3), (a)(4), and (a)(5) are proposed to be renumbered to subsections (a)(4), (a)(5), and (a)(6), respectively.

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

ANTICIPATED BENEFITS

The proposal rephrases the existing requirements to ensure the regulation is more concise and easier to understand. The proposal to expand the requirement ensures that power saws are not started from any elevated

location unless the area below is clear of personnel. This proposed work practice is reasonable and has direct consequences of preventing injuries.

DISCLOSURES REGARDING THE
PROPOSED ACTION

Mandate on Local Agencies or School Districts:
None.

Cost or Savings to State Agencies: None.

Cost to Any Local Government or School District Which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630:
None.

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

Cost or Savings in Federal Funding to the State:
None.

Cost Impacts on a Representative Private Person or Business:

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

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

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states.

The proposal rephrases the existing requirements to ensure that the regulation is more concise and easier to understand. The addition of the workplace practice to ensure that the area below an elevated location is clear of personnel prior to starting the power saw would require minimal time and effort compared to the time and cost that would be incurred if the saw accidentally fell on an employee. The industries affected by the proposal are tree trimming companies and agricultural industries that perform pruning and trimming of trees.

Significant Effect on Housing Costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments may affect small businesses; however, no economic impact is anticipated. The brief time and effort it takes an employee to glance at the area below to ensure

there are no personnel will not result in added costs. The proposal does not impose additional equipment.

RESULTS OF THE ECONOMIC IMPACT
ASSESSMENT/ANALYSIS

The proposed regulations will not have any effect on the creation or elimination of California jobs or the creation of new businesses or the elimination of existing California businesses or affect the expansion of existing California businesses.

Employees in line-clearance tree trimming operations who are working in an aerial lift are already required to ensure that there are no personnel below. The proposal expands the application of this work practice to all general industry employees working at an elevated location, not just while on an aerial lift. There is no cost to momentarily look below to ensure that there are no personnel below the tree trimming area prior to starting a saw.

BENEFITS OF THE PROPOSED ACTION

The proposal to ensure that there are no employees below prior to starting the saw will prevent employee injuries in the event the operator accidentally drops the saw while starting the saw. In addition, the clarifying proposed revisions in the language will make it easier for employers to comply with the regulation because it provides a better understanding of what is expected from them. This proposal does not offer a direct benefit or affect the state's environment.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Christina Shupe (Executive Officer)

and the back-up contact person is Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process

on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.

TITLE 11. DEPARTMENT OF JUSTICE

Notice is hereby given that the Department of Justice (Department) proposes to adopt sections 820 through 828 of Title 11, Division 1, Chapter 8.5, of the California Code of Regulations (CCR), concerning the Controlled Substance Utilization Review and Evaluation System (CURES), pursuant to the authority provided in Health and Safety Code section 11165, subdivision (c)(3).

PUBLIC HEARING

The Department will hold two public hearings to receive public comments on the proposed regulatory action, as follows:

Date:

November 21, 2019

Time:

9:00 a.m.–12:00 p.m.

Location:

East End Complex Auditorium
1500 Capitol Avenue
Sacramento, CA 95814

Date:

November 22, 2019

Time:

9:00 a.m.–12:00 p.m.

Location:

Ronald Reagan State Building
300 South Spring Street
Los Angeles, CA 90013

These hearing locations are wheelchair accessible. Parking will be available for a fee in a structure near the building.

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

WRITTEN COMMENT PERIOD

The public comment period for this regulatory action will begin on October 4, 2019. Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on November 19, 2019. Only comments received by the Department by that time will be considered. Written comments shall be submitted to:

Ross Daley
Associate Governmental Program Analyst
Bureau of Criminal Identification and
Investigative Services
California Justice Information Services Division
4949 Broadway
Sacramento, CA 95820
Email: CURESregulations@doj.ca.gov

Or

Haylee James
Staff Services Analyst
Bureau of Criminal Identification and
Investigative Services
California Justice Information Services Division
4949 Broadway
Sacramento, CA 95820
Email: CURESregulations@doj.ca.gov

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

AUTHORITY AND REFERENCE

Subdivision (c)(3) of Health and Safety Code section 11165 authorizes the Department to adopt proposed regulations sections 820 to 828. The proposed regulatory action will implement, interpret, and make specific the provisions of Health and Safety Code sections 11030, 11150, 11153, 11153.5, 11165, 11165.1, 11165.3, 11165.4, 11165.6, and 11190; Business and Professions Code sections 208, 209, and 4170; Civil Code section 1798.24; Penal Code section 530.55; and Probate Code sections 4700 and 4701 as they relate to CURES.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Background:

CURES is a database of Schedule II, III and IV controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement. The purpose of CURES is to reduce prescription drug abuse and diversion without affecting legitimate medical practice or patient care.

CURES was first established in 1996 by Assembly Bill (AB) 3042 (Chapter 738, Statutes of 1996). AB 3042 effectuated a Controlled Substances Prescription Advisory Council recommendation that the Department develop a “technologically sophisticated data monitoring system to collect as much data as is needed and provide easy access to the data collected for educational, law enforcement, regulatory, and research purposes.” CURES was initially a provisional pilot project; the program collected Schedule II prescription data for law enforcement to identify cases of Diversion. In 2002, AB 2655 (Chapter 345, Statutes of 2002) extended the pilot and authorized licensed health care professionals to request CURES data for prescriptions dispensed to their patients.

In 2003, Senate Bill (SB) 151 (Chapter 406, Statutes of 2003) made CURES a permanent program. This bill enacted a number of other significant reforms to State laws governing the prescribing of Controlled Substances, intending to “increase patient access to appropriate pain medication and prevent the diversion of controlled substances for illicit use.” SB 151 (2003) replaced the triplicate prescription form requirement for Schedule II Controlled Substances with a new requirement that these prescriptions be issued on a special form obtained from an approved security printer. This bill also added Schedule III Controlled Substance data to CURES. In 2006, AB 2986 (Chapter 286, Statutes of 2006) added Schedule IV Controlled Substances.

In 2013, SB 809 (Chapter 400, Statutes of 2013) established a funding mechanism for CURES and called for an update of the database. New system features under SB 809 included the ability for a new “streamlined application and approval process” to replace the previous paper-based registration process and for licensees to delegate their authority to initiate a CURES query to an assistant. The bill also required all licensees authorized to prescribe, order, administer, furnish, or dispense substances to register for the system by 2016.

The improved database, which would come to be called “CURES 2.0,” featured a new user interface and the ability to automatically alert prescribers of patterns indicative of at-risk patient behavior. The new CURES 2.0 also allowed prescribers to flag exclusivity com-

pacts, added peer-to-peer communication, and significantly improved user profile management.

In 2016, SB 482 (Chapter 708, Statutes of 2016) enacted the State's first mandated use of CURES for prescribers. SB 482 required Health Care Practitioners to consult a patient's history in CURES prior to prescribing them a Schedule II, Schedule III, or Schedule IV Controlled Substance for the first time, and then at least once every four months as long as the prescription continued to be renewed. The bill delayed implementation until six months following a certification by the Department that 1) CURES was ready for statewide use and 2) the program had adequate staff. On April 2, 2018, the Department certified that CURES was ready for statewide use and that there was adequate staffing, User support, and education. Mandatory CURES consultation became effective on October 2, 2018.

AB 40 (Chapter 607, Statutes of 2017) was chaptered in 2017, requiring the Department to facilitate interoperability between Health Information Technology (HIT) Systems and CURES, subject to a memorandum of understanding setting minimum security and privacy requirements. The bill intended to help seamlessly integrate the use of CURES into a busy practice setting by allowing for queries to be made within a Health Care Practitioner's native electronic health record system.

Current Health and Safety Code section 11165, subdivision (a), requires the Department to maintain CURES to assist Health Care Practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of Controlled Substances; to assist Law Enforcement and Regulatory Agencies in their efforts to control the Diversion and Resultant Abuse of Schedule II, Schedule III, and Schedule IV Controlled Substances; and for statistical analysis, education, and research. In accordance with Health and Safety Code section 11165, subdivision (a), CURES operates as a database of Controlled Substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement. CURES is committed to the reduction of prescription drug Abuse and Diversion without affecting legitimate medical practice or patient care.

The statute governing the operation of CURES provides the Department with discretion in regards to who may access information contained in the database. Health and Safety Code section 11165, subdivision (c)(2)(A), states that the Attorney General "shall establish policies, procedures, and regulations regarding the use, access, evaluation, management, implementation, operation, storage, disclosure, and security of the information within CURES." Access to CURES is limited by the Department to licensed prescribers and licensed pharmacists for patients under their care, and Regulatory Agency employees and law enforcement officers or

employees in their efforts to control the Diversion and Resultant Abuse of Controlled Substances. However, to date, the Department has not promulgated any formal regulations relating to CURES. Details as to who can access the system, and for what purposes, have not been substantially memorialized or put through a public rule-making process. The details have been left instead to policies and procedures as permitted or required by statute.

Most recently, AB 1751 (Chapter 478, Statutes of 2018) required the Department, no later than July 1, 2020, to adopt regulations regarding the access and use of the information within CURES by consulting with stakeholders, and addressing certain processes, purposes, and conditions in the regulations. Specifically, AB 1751 implemented the Health and Safety Code section 11165, subdivision (c)(3) requirement that the Department regulations address, at minimum, the following:

- The process for approving, denying, and disapproving individuals or entities seeking access to information in CURES;
- The purposes for which a Health Care Practitioner may access information in CURES;
- The conditions under which a warrant, subpoena, or court order is required for a Law Enforcement Agency to obtain information from CURES as part of a criminal investigation; and
- The process by which information in CURES may be provided for educational, Peer Review, statistical, or Research Purposes.

AB 1751 also authorized the Department, once final regulations have been issued, to enter into an agreement with any entity operating an interstate data sharing hub, or any agency operating a prescription drug monitoring program (PDMP) in another state, for purposes of interstate data sharing of PDMP information, as specified. The bill requires any agreement entered into by the Department for those purposes to ensure that all access to data obtained from CURES and the handling of data contained within CURES comply with California law and meet the same patient privacy, audit, and data security standards employed and required for direct access to CURES.

In response to AB 1751, the Department has drafted proposed Chapter 8.5 of the CCR, concerning CURES access and use. The Department is statutorily mandated to promulgate regulations for these purposes no later than July 1, 2020.

The Department is committed to continuously working to improve the effectiveness of CURES. Even after these regulations are adopted, the Department will continue conducting research and stakeholder outreach to evaluate the future need for further regulations. The Department will engage in a separate rulemaking process

upon the conclusion of the research and outreach to implement interstate data sharing, in order to further bolster efforts to control the Diversion and Resultant Abuse of Schedule II, Schedule III, and Schedule IV Controlled Substances.

EFFECT OF THE PROPOSED RULEMAKING

The proposed regulations codify and update existing policies and procedures governing CURES and provide necessary guidance on the process for approving individuals or entities seeking access to information in CURES and the purposes for which a prescriber, pharmacist, Interstate Prescriber or Pharmacist, Regulatory Agency, Law Enforcement Official, Research Requestor, and individual requestor may access and use CURES data. In addition, the regulations implement the procedures and security and privacy requirements necessary to facilitate interoperability between Health Information Technology (HIT) Systems and CURES.

Proposed CCR, Title 11, Division 1, Chapter 8.5 interprets and details the specifics of these laws as follows:

Article 1 defines the terms used throughout the new chapter.

Article 2 specifies who may have access to CURES, the process and requirements for gaining access, and how and for what purposes CURES and the information contained therein may be used. Each section within Article 2 outlines the requirements for a specific type of user, i.e., prescriber, pharmacist, Interstate prescriber or Interstate Pharmacist, as defined, Regulatory Agency, Law Enforcement Agency, Research Requestor, and individual requestor.

Each section specifies who within each User type is eligible for access to CURES. For each respective Applicant Type, the sections specify the process for requesting and gaining access and the associated information that must be provided to the Department. They also specify the types of information that approved Users within each Applicant Type are able to access through CURES. They outline restrictions placed on each Applicant Type for accessing, using, and disclosing patient information. Lastly, they specify the procedures for accessing the reports available to each Applicant Type.

In addition to the information described above, some sections detail further requirements specific to the User type in question.

Sections 821 and 822 further delineate similar requirements and procedures for individuals to whom prescribers and pharmacists have delegated authority to order reports from CURES.

Section 823 further specifies the circumstances under which an Interstate Prescriber or Interstate Pharmacist, as defined, may access CURES.

Section 824 further specifies that a Regulatory Agency may obtain data from CURES for as long as the data is retained in CURES, and narrows the scope of Regulatory Agency access to CURES to delineated purposes that assist a Regulatory Agency's efforts to control the Diversion and Resultant Abuse of Controlled Substances.

Section 825 further specifies circumstances under which a Law Enforcement Official is required to provide a search warrant or a court order, unless otherwise specified, to obtain a Patient Activity Report, and specifies that a Law Enforcement Official may also obtain data from CURES for as long as the data is retained in CURES.

Section 826 further specifies requirements that a Research Requestor must meet once they have concluded a research project or report, including submission of a signed and dated certificate of data destruction confirming delineated actions.

Section 827 further specifies the requirements for use of the CURES-101 Information Practices Act Individual Request Form and the CURES-201 Information Practices Act Representative Request Form, as well as instructions for how to use those forms to retrieve audit history information.

Section 828 further specifies eligibility criteria and procedures for access specific to integration with the Information Exchange Web Service.

COMPARABLE FEDERAL REGULATIONS

Health and Safety Code section 11165, subdivision (c) requires that CURES operate in compliance with all applicable federal and State privacy and security laws and regulations. Applicable federal privacy and security regulations are as follows:

- Code of Federal Regulations, Title 45, Parts 160 and 164, governing the protection and confidentiality of individuals' medical records and protecting patients' privacy rights in their health information.

This regulation is consistent with those federal regulations.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The purpose of CURES is to reduce prescription drug abuse and diversion without affecting legitimate medical practice or patient care. The objective of the proposed rulemaking action is to clarify the requirements

of Health and Safety Code section 11165 regarding the access and use of the information within CURES. These regulations are meant to ensure that all Users are aware of their roles and responsibilities when accessing CURES data and that the information contained in CURES is safeguarded.

The Department anticipates that these regulations will benefit the health, welfare, and safety of California residents because they clarify and make specific the statutes governing the access and use of CURES. As such, these regulations are intended to contribute to safe prescribing and dispensing of Controlled Substances, and to protect the security of the patient information contained within CURES. By clearly detailing the requirements for access and use for each Applicant Type, these regulations will provide transparency, empower prescribers and pharmacists to confidently utilize the system as a tool to facilitate care, and ensure that the information contained in CURES is used only for statutorily authorized purposes.

EVALUATION OF
INCONSISTENCY/INCOMPATIBILITY WITH
EXISTING STATE REGULATIONS

Pursuant to Government Code (GC) section 11346.5, subdivision (a)(3)(D), the Department shall evaluate whether the proposed regulations are inconsistent or incompatible with existing state regulations. Pursuant to this evaluation, the Department has reviewed existing regulations in the CCR and has determined that no other regulations address CURES. Hence, these proposed regulations are not inconsistent or incompatible with existing state regulations.

DOCUMENTS INCORPORATED
BY REFERENCE

Documents will be incorporated in the regulation by reference as specified by the following sections:

1. National Institute of Standards and Technology (NIST) Special Publication 800–88, Revision 1, Guidelines for Media Sanitization, December 2014 (see subdivision (f)(7)(D) of section 826).
2. CURES–101 Information Practices Act Individual Request Form, September 2019 (see subdivision (b) of section 827).
3. CURES–201 Information Practices Act Representative Request Form, September 2019 (see subdivision (b) of section 827).
4. CURES Information Exchange Web Service Overview, September 2019 (see subdivision (b)(4) of section 828).

5. CURES Information Exchange Web Service Onboarding Questionnaire, September 2019 (see subdivision (b)(3) of section 828).

MANDATED BY FEDERAL
LAW OR REGULATIONS

The proposed regulations are not mandated by federal law or regulations.

OTHER STATUTORY REQUIREMENTS

Health and Safety Code section 11165 requires the Department to consult with all stakeholders identified by the Department during the rulemaking process when promulgating regulations governing CURES. (Health and Safety Code, section 11165, subdivision (c)(3).) The Department worked with Health Care Practitioners, pharmacists, advocates, law enforcement, researchers, public health officials, and Regulatory Agency and government actors in drafting these regulations. In 2019, the Department held five public meetings throughout the state to receive, consider, and discuss stakeholder input on the regulations.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

Cost or Savings to Any State Agency: Where relevant and appropriate, the Department analyzed instances of prior engagement and recent historical data and trends to determine projected fiscal effects on state government that state agencies or actors may incur to comply with this regulation for the current year and two subsequent fiscal years. For example, the Department conducted outreach with State Law Enforcement Agencies to determine the estimated fiscal effects on state government, in the form of time and resources, which a State Law Enforcement Official may incur to comply with this regulation. Marginal impacts were determined to public research organizations that are similar to the impacts discussed for public health offices. Additionally, similar preparation and submission costs were found for state law enforcement officials, but to a considerably reduced extent. Using the information gathered from affected parties, the estimated fiscal effect of this regulation for the current year and two subsequent fiscal years to state government is \$6,738–\$19,578.

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:

The estimated fiscal impact on local government was calculated by conducting outreach with affected local agencies or actors to determine the scale of projected effects. Where relevant and appropriate, the Department analyzed instances of prior engagement and recent historical data and trends to determine projected fiscal effects on local government that local agencies or actors may incur to comply with this regulation for the current year and two subsequent fiscal years. For example, the Department conducted outreach with local law enforcement to determine the estimated fiscal effects on local government, in the form of time and resources, which a law enforcement official may incur to comply with this regulation.

More specifically, the costs to local Law Enforcement Agencies related to search warrants, court orders, and prosecution subpoenas were factored into the total fiscal impact on local government. Additionally, the impact to local governmental research organizations was considered. Because the individuals who would perform duties related to research functions vary broadly, the Department used a Public Health Officer classification as the basis for estimating the low fiscal impact of the regulation on the local governmental research community and an Epidemiologist classification as the basis for estimating the high fiscal impact of the regulation on the local governmental research community. Using the information gathered from affected parties, the estimated fiscal effect of this regulation for the current year and two subsequent fiscal years to local government is \$102,477–\$463,275.

Cost or Savings in Federal Funding to the State: None.

Significant Effect on Housing Costs: None.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including Ability to Compete: The Department has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. This is because the isolated economic impacts to businesses that are attributable to this regulation, rather than the underlying statutes, are nominal, if existent.

This regulation would set a Connectivity Fee for a HIT System. A HIT System is an information processing application using hardware and software for the storage, retrieval, sharing of or use of patient data for communication, decision-making, coordination of care, or the quality, safety, or efficiency of the practice of medicine or delivery of health care services, including, but not limited to, electronic medical record appli-

cations, health information exchange systems, or other interoperable clinical or health care information system. The mandatory, one-time Connectivity Fee paid by an entity operating a HIT System, which covers the cost of connecting that HIT System to the Information Exchange Web Service and is set in the amount of \$1,500, is authorized by Health and Safety Code section 11165.1, subdivision (a)(1)(H). Hospitals and health care networks would be the entities operating a HIT System. This Connectivity Fee would not result in an adverse economic impact because the cost is nominal in proportion to the scale of businesses engaging with this regulation.

RESULTS OF THE ECONOMIC
IMPACT ANALYSIS/ASSESSMENT
PREPARED PURSUANT TO GOVERNMENT
CODE SECTION 11346.3, SUBDIVISION (b)

Effect on Jobs/Businesses:

The Department has determined that the proposed regulatory action would not affect the creation or elimination of jobs or businesses within the State of California or the expansion of businesses currently doing business within the State of California. This determination is based on the fact that this proposed action only codifies requirements pertaining to existing licensed Health Care Practitioners and pharmacists. Furthermore, this proposed action would have no impact on any other businesses or jobs. For example, it is possible that Health Care Practitioners or pharmacists could choose to contract with a HIT System to effectuate any modifications necessary to meet the requirements for integration with CURES; however, it is not possible for the Department to anticipate how many Health Care Practitioners or pharmacists would choose to do so or the extent of the modifications required.

Benefits of the Proposed Regulation:

The purpose of CURES is to reduce prescription drug abuse and diversion without affecting legitimate medical practice or patient care. The regulations proposed in this rulemaking action would standardize the procedures and processes for obtaining access to CURES and the information therein. The regulations would eliminate confusion surrounding access, uses, and purposes thereof for CURES, as well as create as much transparency as possible into its workings.

In addition, the proposed regulatory action will positively impact the privacy of California residents by establishing policies and responsibilities for those who access and use CURES data. This will enable the Department to ensure that all users are adhering to policies and procedures necessary to protect the information contained in CURES.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department has determined that a representative private person or business would necessarily incur a cost of \$11.00–\$20.00 per person in reasonable compliance with the proposed action. This cost is a result of the requirement that an individual seeking his or her own personal CURES data submit notarized documents, as specified.

This regulation would set a Connectivity Fee for a HIT System, as discussed above. The mandatory, one-time Connectivity Fee is set in the amount of \$1,500. Hospitals and health care networks would be the entities operating a HIT System. This connectivity fee would not result in a significant cost impact on representative private business because the impact is nominal to the scale of businesses engaging with this regulation. Private persons would not be impacted here.

BUSINESS REPORT

These regulations do not require a report that applies to businesses.

SMALL BUSINESS DETERMINATION

The Department has determined that 47.3% of the HIT Systems and research organizations impacted by these regulations would qualify as small businesses. In order to comply with this regulation over its lifetime, the total cost for these HIT Systems was determined to be in the range of \$17,311–\$34,621, and the total cost for these research organizations was determined to be in the range of \$636–\$3,812.

CONSIDERATION OF ALTERNATIVES

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

The Department invites interested persons to present statements or arguments, with respect to alternatives, to the proposed regulations during the 45-day written comment period.

CONTACT PERSONS

Inquiries concerning the proposed regulatory action may be directed to:

Ross Daley
Associate Governmental Program Analyst
Bureau of Criminal Identification and
Investigative Services
California Justice Information Services Division
4949 Broadway
Sacramento, CA 95820
(916) 210-3007

The backup contact person for these inquiries is:

Haylee James, Staff Services Analyst
Bureau of Criminal Identification and
Investigative Services
California Justice Information Services Division
4949 Broadway
Sacramento, CA 95820
(916) 210-3180

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. The text of the proposed regulation (the “express terms”), the Initial Statement of Reasons, and the information upon which the proposed rulemaking is based are available at the Department’s website at <https://oag.ca.gov/bciis/regs>. Copies may also be obtained by contacting:

Ross Daley
Associate Governmental Program Analyst
Bureau of Criminal Identification and
Investigative Services
California Justice Information Services Division
4949 Broadway
Sacramento, CA 95820
(916) 210-3007

AVAILABILITY OF CHANGED OR MODIFIED TEXT

This regulatory proceeding will be conducted in accordance with the California Administrative Procedure Act, Government Code, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340).

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt the regulations

as described in this notice, or make modifications based on the comments. If the Department makes modifications which are sufficiently related to the original text of the proposed regulations, the amended text, with the changes clearly indicated, will be made available for an additional 15-day public comment period, before the Department adopts the regulations. The Department will accept written comments on the modifications to the regulations during the 15-day public comment period.

AVAILABILITY OF FINAL STATEMENT OF REASONS

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

Ross Daley
Associate Governmental Program Analyst
Bureau of Criminal Identification and
Investigative Services
California Justice Information Services Division
4949 Broadway
Sacramento, CA 95820
(916) 210-3007

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikethrough format, as well as the Final Statement of Reasons once completed, are available on the Department's website at <https://oag.ca.gov/bciis/regs>.

TITLE 11. DEPARTMENT OF JUSTICE

The Department of Justice (Department) proposes to amend sections 5505, 5507, 5509, 5510, 5511, 5513, 5514, 5516, 5517, 5518 and 5521 of Title 11, Division 5, Chapter 41, of the California Code of Regulations. Chapter 41 has been retitled as "Self-Manufactured or Self-Assembled Firearms." These amendments would allow new residents to the state to apply for a unique serial number for a self-manufactured or self-assembled firearm after paying an application fee and meeting other requirements. This rulemaking proposes to make permanent, with changes, the emergency regulations approved on July 1, 2019.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on Monday, November 19, 2019. Only comments received by that time will be considered. Written comments must be submitted to:

Kamran Ali
Bureau of Firearms
Division of Law Enforcement
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Phone: 916-227-5419
Email: FirearmsIDregs@doj.ca.gov

AUTHORITY AND REFERENCE

Authority: Sections 29180 and 29182, Penal Code.
Reference: Sections 11106, 16170, 16400, 16520, 16535, 16670, 23910, 27510, 28160, 28220, 29180, 29181, 29182, 29183 and 29184, Penal Code; Section 8104, Welfare and Institutions Code and Section 1798.17, Civil Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action implements the requirements of Penal Code section 29180, which requires new residents of the state to apply for a unique serial number within 60 days for any firearms that they bring into California that do not already have a unique serial number or other mark of identification. The proposed regulations also implement the requirements of Penal Code section 29182 and require an applicant for a unique serial number to be at least 21 years of age. Currently, new residents to the state are unable to apply for a unique serial number under Title 11, Division 5, Chapter 41, of the California Code of Regulations. This rulemaking action would update the reference sections of existing regulations, and make the following revisions:

The title of Chapter 41 has been amended for the sake of concision.

Section 5505 has been amended to include new California residents in the title and scope of the regulations.

Section 5507 has been amended to add additional firearms-related definitions as well as terminology specifically used for these regulations. An amendment has also been made to delete a Penal Code section that has been superseded by a changed statute. The correct Penal Code was added to conform to mandated statutory language by redefining firearms eligibility check as the state and federal background check pursuant to Penal Code section 28220 that is used to determine an individual's eligibility to possess a firearm.

Section 5509 has been amended to include new California residents who wish to possess in the state a previously self-manufactured or self-assembled firearm that does not have a unique serial number or other mark of identification.

Section 5510 has been amended to include the January 1, 2019 effective date for new California residents.

Section 5511 has been amended to allow new California residents to use the California Firearms Applications Reporting System (CFARS) to apply for a unique serial number or other mark of identification for a self-manufactured or self-assembled firearm.

Section 5513 has been amended to delete language that has been superseded by a changed statute and to add language to conform to mandated statutory language by including the new age restriction of 21 to obtain a unique serial number for a firearm that is not a handgun. Additionally, amendments have also been made to specify the Department will ask for additional firearm(s) identifying information and digital image(s) to ensure compliance with state firearm laws. Additional changes have also been made for clarity and consistency.

Section 5516 has been amended to have the denial letter, if an applicant is deemed ineligible, be sent by U.S. mail. Additional changes have been made for clarity and consistency.

Section 5518 has been amended to require new residents to the state to engrave their unique serial number on their firearm and upload digital photos to CFARS within 10 days of receiving their unique serial number. It also provides for applicants to reapply if they fail to engrave and upload photos of their unique serial number.

Section 5521 has been amended in order to specify the Department will ask for additional firearms identifying information and digital images to ensure compliance with state firearms laws.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

This rulemaking protects public safety, public health and worker safety by reducing the number of untraceable firearms coming into the state of California. A new resident will have to undergo a background check in order to receive a unique serial number, which will allow the Department to determine if the person is prohibited from possessing a firearm. These regulations will also allow law enforcement to effectively trace the ownership of a firearm if it is used in a crime.

This rulemaking neither benefits nor hinders the environment, the prevention of discrimination, the promotion of fairness or social equity, or the increase in openness and transparency in business or government.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Pursuant to Government Code section 11346.5, subdivision (a)(3)(D), the Department shall evaluate whether the proposed regulation is inconsistent or incompatible with existing state regulations. Pursuant to this evaluation, the Department has reviewed existing regulations pertaining to firearms within California Code of Regulations ("CCR") Title 11, Division 5, and determined that these proposed regulations are not inconsistent or incompatible. This determination is based on the fact that there are no regulations currently existing which address the process of new residents applying for and receiving unique serial numbers.

COMPARABLE FEDERAL REGULATIONS

There are no existing federal regulations or statutes comparable to the proposed regulation.

OTHER STATUTORY REQUIREMENTS

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

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

Cost or savings to any state agency: None.

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

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

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

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

Business report requirement: None.

Significant effect on housing costs: None.

Small business determination: The Department has determined that the proposed regulation will not affect the creation or elimination of small businesses because the regulations pertain to new residents to the state and do not directly affect small business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Assessment regarding effect on jobs/businesses: Adoption of the proposed regulations will not:

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

The Department's determination on items (1) through (4) are based on the fact that the regulations pertain to new residents to the state and do not directly affect any businesses.

For additional benefits, please see "Anticipated Benefits of the Proposed Regulations" found under the Informative Digest/Policy Statement Overview.

COSTS IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

This regulation imposes a fee on new residents who wish to apply for a unique serial number. The fee for submitting an application for a unique serial number is \$35, which covers the cost for a background check and one unique serial number application. If the applicant requests multiple serial numbers in the same application, the fee is \$15 for each additional serial number.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Any person interested in presenting statements or arguments with respect to alternatives to the proposed regulations may do so at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Please direct inquiries concerning the proposed administrative action to:

Kamran Ali
Bureau of Firearms
Division of Law Enforcement
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Phone: (916) 227-5419
Email: FirearmsIDregs@doj.ca.gov

The back-up contact person for these inquiries is:

Jacqueline Dosch
Bureau of Firearms
Division of Law Enforcement
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Phone: (916) 227-7614
Email: FirearmsIDregs@doj.ca.gov

AVAILABILITY OF RULEMAKING FILE INCLUDING THE INITIAL STATEMENT OF REASONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. The text of the proposed regulation (the "express terms"), the initial statement of reasons, and the information upon which the proposed rulemaking is based are available at the Department's website at <https://oag.ca.gov/firearms/regs>. Copies may also be obtained by contacting Kamran Ali at the address or phone number listed above.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days and accept written comments before the Department adopts the regulations. Copies of any modified text will be available on the Department's website at <https://oag.ca.gov/firearms/regs>. A written copy of any modified text may be obtained by contacting Kamran Ali at the address or phone number listed above.

**AVAILABILITY OF
FINAL STATEMENT OF REASONS**

Upon completion, the Final Statement of Reasons will be available on the Department's website at <https://oag.ca.gov/firearms/regs>. You may also obtain a written copy of the final statement of reasons by contacting Kamran Ali at the address or phone number listed above.

**AVAILABILITY OF
DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format, as well as the Final Statement of Reasons once completed, are available on the Department's website at <https://oag.ca.gov/firearms/regs>.

**TITLE 16. OSTEOPATHIC MEDICAL
BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Osteopathic Medical Board of California (Board) is proposing to adopt the regulation described below in the Informative Digest after considering all comments, objections, and recommendations regarding the proposed action. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**The Osteopathic Medical Board of California
1300 National Drive,
Suite 150, Conference Room
Sacramento, CA 95834**

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on November 20, 2019, located at the Osteopathic Medical Board of California Conference Room, 1300 National Drive, Suite 150, Sacramento, CA 95834. The conference room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests 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 comments relevant to the proposed regulatory action to the Board. Written comments, including those sent by mail, facsimile, or email should be sent to the addresses listed under Contact Person in this Notice, and must be received by the Board at its office not later than 5:00 p.m. on November 19, 2019. The written comment period closes at 5:00 p.m. on November 19, 2019, or comments must be received at the hearing. The Board will consider only comments received at the Board office by that time.

The Board, upon its own motion or at the insistence of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

The Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), section 1, and sections 2018, and 3600-1 of the Business and Professions Code, authorizes the Board to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific section 2064.5 of the Business and Professions Code (BPC).

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

This rulemaking action seeks to amend section 1690 of the California Code of Regulations (CCR), Division 16 of Title 16 to add a new fee for a Postgraduate Train-

ing License (PTL) pursuant to BPC section 2064.5, which authorizes the Board to charge a non-refundable application and processing fee to obtain a PTL. Pursuant to BPC section 2064.5, the PTL expires not later than 90 days after a licensee completes 36 months of postgraduate training. The license would not be renewable. No other fees would be charged for this license.

Pursuant to BPC section 2064.5, the requirement for a PTL would become effective January 1, 2020.

Chapter 775, Statutes 2017 (Hill, SB 798) and Chapter 571, Statutes 2018 (Hill, SB 1480) require the Board to create a new license type and authorize the Board to charge a non-refundable application and processing fee to cover the costs of implementation and ongoing workload for this new license type. The Board estimates the total cost of implementing and ongoing management of this new license type is \$145,000 per year. The proposed fee amount is \$491 and will generate a total of \$145,827 the first year. The Board estimates that the number of trainees will increase by ten percent each year, which will in turn increase revenue for this license. In setting the proposed fee amount of \$491, the Board balanced the interests of the Board's fiscal need to charge a fee that covers the increased expenditures with the interests of the postgraduate training programs. The Board also felt comfortable with the fact that the fee will offset the increased expenditures (\$145,827 out of the projected \$145,000 increased expenditure).

BENEFIT OF THE REGULATION

The fee will generate revenue that the Board needs to provide this new license. Without the fee, the added expenditures would exacerbate the Board's structural deficit. Additionally, the increased revenue will ensure that the Board can appropriately regulate and enforce the PTL license. This will be consistent with the Board's mission of protecting the public.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Board has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Board has concluded that these are the only regulations that impose a fee to obtain a PTL.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies. None.

Local Mandate. None.

Costs to Any Local Agency or School District Which Must be Reimbursed in Accordance with Government Code Sections 17500-17630. None.

BUSINESS IMPACT

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This fee will only impact individual postgraduate trainees, not businesses. No other businesses or individuals will be impacted by this fee. The Board estimates the number of postgraduate trainees to be subject to this fee to be approximately 297 the first year and thereafter increase ten percent each year.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Postgraduate trainees would be required to pay the \$491 application fee. The Board is not otherwise aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This fee only applies to postgraduate trainees in a training program, who would be required to pay a non-refundable application and processing fee to obtain a required PTL from the Board. The Board estimates that there will be approximately 297 trainee applicants subject to this fee in the first year, with a ten percent increase each year thereafter. No other individuals or businesses will be impacted by this fee.

EFFECT ON HOUSING COSTS

None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect any small businesses. The fee only

impacts osteopathic postgraduate trainees, which are not small businesses.

**RESULTS OF
ECONOMIC IMPACT ASSESSMENT**

The Board has made an initial determination that the proposed regulatory action would not have any statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts and analysis.

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. This fee is nominal and will only be charged to approximately 297 osteopathic postgraduate trainees.

Benefits of Regulation:

The fee will generate revenue the Board needs to offset the costs of providing a new license. Without the fee, the added expenditures would exacerbate the Board's structural budget deficit. The Board has determined that this regulatory proposal will ensure that the Board can appropriately regulate and enforce the PTL license. This is consistent with the Board's mission of protecting the public. This regulatory proposal will have no effect on worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the aforementioned hearing.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the contact per-

son named below or by accessing the Board's website: <http://www.ombc.ca.gov>.

**INITIAL STATEMENT OF
REASONS AND INFORMATION**

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Contact Person listed below or by accessing the Board's website: <http://www.ombc.ca.gov>.

CONTACT PERSON

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

Name:

Terri Thorfinnson, Assistant Executive Director
1300 National Drive, Suite 150,
Sacramento, CA 95834
Phone: (916) 928-8390
Fax: (916) 928-8392
Email: Terri.Thorfinnson@dca.ca.gov

The backup contact person is:

Name:

Machiko Chong, Executive Analyst
1300 National Drive, Suite 150,
Sacramento, CA 95834
Phone: (916) 928-8390
Fax: (916) 928-8392
Email: Machiko.Chong@dca.ca.gov

Website Access: Materials regarding this proposal can be found on the Board's website at <http://www.ombc.ca.gov>.

TITLE 17. AIR RESOURCES BOARD

**PROPOSED AMENDMENTS TO THE LOW
CARBON FUEL STANDARD REGULATION**

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 the Low Carbon Fuel Standard Regulation (LCFS).

DATE:

November 21, 2019

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 21, 2019, and may continue at 8:30 a.m., on November 22, 2019. Please consult the agenda for the hearing, which will be available at least ten days before November 21, 2019, 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 October 4, 2019. Written comments not physically submitted at the hearing must be submitted on or after October 4, 2019, and received **no later than** November 18, 2019. CARB requests that when possible, written and email statements be filed at least ten 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, section 6250 et seq.), your written and oral comments, attachments, and associated contact in-

formation (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 the authority granted in California Health and Safety Code sections 38510, 38530, 38560, 38560.5, 38571, 38580, 39600, 39601, 41510, 41511, 43000.5, 43013, 43018, and 43101; 42 U.S.C. section 7545; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). This action is proposed to implement, interpret, and make specific Health and Safety Code sections 38510, 38530, 38560, 38560.5, 38571, 38580, 39600, 39601, 41510, 41511, 43000.5, 43013, 43018, and 43101; 42 U.S.C. section 7545; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

INFORMATIVE DIGEST OF PROPOSED ACTION
AND POLICY STATEMENT OVERVIEW

(Gov. Code, section 11346.5, subd. (a)(3))

Sections Affected: Proposed amendment to California Code of Regulations, title 17, sections 95481, 95483, 95485, 95486.1, 95487, 95491, and 95495.

Background and Effect on the Proposed Regulatory Action:

In 2006, the Legislature passed and then-Governor Schwarzenegger signed the California Global Warming Solutions Act of 2006 (AB 32; Stats. 2006, Ch. 488). In Assembly Bill (AB) 32, the Legislature declared that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The Legislature further declared that global warming will have detrimental effects on some of California's largest industries, including agriculture and tourism, and will increase the strain on electricity supplies. The Legislature recognized that action taken by California to reduce emissions of greenhouse gases (GHG) will have far-reaching effects by encouraging other states, the federal government, and other countries to act. AB 32 creates a comprehensive, multi-year program to reduce GHG emissions in California, with the overall goal of restoring emissions to 1990 levels by the year 2020. AB 32 required CARB to take actions that included:

- Establishing a statewide GHG emissions cap for 2020, based on 1990 emissions;

- Adopting a scoping plan by January 1, 2009, indicating how emission reductions will be achieved from significant GHG sources via regulations, market mechanisms, and other actions;
- Adopting a list of discrete, early action GHG emission reduction measures by June 30, 2007, which can be implemented and enforced no later than January 1, 2010; and
- Adopting regulations by January 1, 2010, to implement the measures identified on the list of discrete early action measures.

In 2007, then-Governor Schwarzenegger signed Executive Order S-01-07. This executive order directed CARB to determine whether an LCFS for transportation fuels used in California could be adopted as a discrete early action measure pursuant to AB 32, and if so, to draft the LCFS so that it reduces the carbon intensity of transportation fuels used in California by at least 10 percent by the year 2020. In addition to substantially reducing GHG emissions from transportation fuels, the LCFS is expected to help diversify the transportation fuels market in California, thereby cutting petroleum dependency and creating a sustainable and growing market for cleaner fuels. In 2007, the Board approved a list of nine discrete early action measures, including a measure entitled, “Low Carbon Fuel Standard.” The proposed regulation was designed to implement this measure pursuant to the requirements of AB 32 and Executive Order S-01-07.

The Board approved an LCFS regulation in 2009. The goal of the LCFS regulation was to reduce the carbon intensity of transportation fuels used in California by at least 10 percent by 2020 from a 2010 baseline. CARB approved revisions to the LCFS effective November 26, 2012.

On July 15, 2013, the State of California Court of Appeal (Court) issued its opinion in *POET, LLC v. California Air Resources Board* (2013) 218 Cal.App.4th 681, ruling that the LCFS adopted in 2009 and implemented in 2010 (referred to as 2010 LCFS) would remain in effect, and that CARB could continue to implement and enforce the 2013 regulatory standards while taking steps to address California Environmental Quality Act (CEQA) and Administrative Procedure Act (APA) issues identified in the ruling. To address those issues, CARB must set aside the existing LCFS regulation and re-adopt an LCFS regulation.

To comply with the court ruling, and to update and revise the LCFS regulation, on September 25, 2015, the Board set aside the previous version of the LCFS, and simultaneously adopted a new version of the LCFS. On that same day, the Board also adopted an ADF regulation designed to preserve or enhance public health, en-

vironmental and emission benefits associated with the use of innovative alternative diesel fuels in California.

In 2018, CARB approved amendments to the LCFS, which included a doubling of the carbon intensity target to 20 percent by 2030 to help achieve the SB 32 GHG reduction target of at least 40 percent below 1990 levels by 2030, inclusion of new credit generating opportunities, the establishment of a third-party verification program, adoption of a carbon capture and sequestration protocol, as well as additional updates and improvements to the program. 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:

Strengthen the Cost Containment Provisions of the LCFS Program

The LCFS requires that regulated entities meet the annual carbon intensity standards. The regulation contains numerous design features that provide regulated parties with flexibility regarding their compliance strategy, which help to contain the cost of the program while achieving reductions in the carbon intensity of California’s transportation fuel pool.

When the LCFS was re-adopted in 2015, the Board approved the addition of a cost containment provision in the LCFS, which has not been modified since. Under the current regulation, regulated entities would be allowed to hold deficits to the next compliance period, provided that they purchase their pro-rata share of all credits made available for sale during a year-end credit clearance market (CCM). This credit clearance mechanism is specified in section 95485 of the LCFS regulation. If there are insufficient credits pledged in the CCM, regulated entities may “bank” deficits for up to five years before they are in non-compliance with the standard, and incur 5 percent interest each year on all outstanding deficits up to the point of non-compliance. Credits can be sold in the CCM at a maximum price of \$200 in 2016 dollars, indexed for inflation. There is currently no equivalent price cap in the normal day-to-day LCFS market. Therefore, the maximum allowable price for credit sales in the CCM effectively functions as a “soft price cap” for the LCFS market as a whole.

With credit prices capped in the CCM and the allowance for five years of deficit banking, staff does not believe that regulated entities facing credit shortage will elect to pay more than the CCM’s maximum price to obtain credits in the day-to-day market. Staff’s reasoning is that there are plenty of GHG emission mitigation opportunities below the CCM’s maximum price that can be brought online within a five-year period. Additionally, strong LCFS credit prices and the availability of recently introduced opportunities to generate

credits will likely result in sufficient low-carbon fuel production and associated credit generation to meet the regulated entities' demand for credits.

While staff has confidence that the current provisions are robust enough to prevent prices from increasing beyond the CCM's maximum price, several stakeholders have expressed concerns that regulated entities may be willing to pay more than the maximum price to avoid the possibility of not meeting their annual deficit obligation. Others are concerned by the potential for some entities to manipulate the market and drive up prices for short-term monetary gain. While staff believes these scenarios are unlikely, such price spikes may have adverse impacts on California consumers, potentially resulting in an erosion of support for the program, thereby leading to credit market instability and investor uncertainty in the long-term survival of the program. Avoiding credit market instability and deterring market manipulation is essential to ensure investment and support in the LCFS, which is essential for driving innovation and GHG emission reduction in transportation, California's largest sector of GHG emissions.

Staff's proposal will address concerns about an unlikely credit shortfall and further deters market manipulation that could result in high or unpredictable prices while ensuring ongoing support for transportation electrification. It will also address concerns of buyer liability expressed by some stakeholders about invalidation risk for credits purchased in the CCM. Finally, it will place a hard cap on the price of credits in the day-to-day market. In total, these provisions will strengthen the credit clearance market and create an upper bound on the potential compliance costs in the LCFS program, providing greater certainty for regulated entities and limiting potential adverse impacts on California consumers.

Support GHG and Criteria Pollutant Reductions in Disadvantaged Communities

To ensure that the economic and health benefits of the LCFS are directed towards and addressing equity and environmental justice concerns, staff proposes to require electric utilities to use a significant portion of their credit revenue to support transportation electrification in disadvantaged and/or low-income communities. Under the existing regulation, hundreds of entities across the State earn revenue from LCFS credits. The objectives of the program are well-aligned with environmental justice recommendations. However, the existing regulation does not specifically guarantee that the cleaner fuels and technologies promoted by the LCFS will be deployed in areas disproportionately affected by environmental pollution. Staff's proposal includes requirements to ensure that LCFS credit revenues are in-

vested in disadvantaged and low-income communities and support improvements in local air quality.

Comparable Federal Regulations:

There are no current federal regulations comparable to the proposed regulation. The United States Environmental Protection Agency (U.S. EPA) has adopted Renewable Fuel Standard (RFS) regulations, 40 CFR section 80.1400 et seq., that mandate the blending of specific volumes of renewable fuels into gasoline and diesel sold in the United States to achieve a specified ratio for each year (i.e., the renewable fuel standard). As defined, "renewable fuels" under the RFS superficially resembles the list of transportation fuels subject to the LCFS.¹ However, there are a number of reasons why the RFS is not comparable to the LCFS.

Congress adopted a renewable fuel standard in 2005 and strengthened it in December 2007 as part of the Energy Independence and Security Act. The RFS requires that 36 billion gallons of biofuels be sold annually by 2022, of which 21 billion gallons must be "advanced" biofuels and the other 15 billion gallons can be corn ethanol. The advanced biofuels are those that achieve at least 50 percent reduction from baseline lifecycle GHG emissions, with a subcategory required to meet a 60 percent reduction target. These reduction targets are based on lifecycle emissions, including emissions from land use changes.

The RFS volumetric mandate alone will not achieve the objectives of the LCFS. The RFS targets only biofuels and not other alternatives; therefore, the potential value of electricity, hydrogen, and natural gas are not considered in an overall program to reduce the carbon intensity of transportation fuels. In addition, the targets of 50 percent and 60 percent GHG reductions only establish minimum requirements for biofuels, without incentivizing continuous improvements. Instead, the RFS assigns biofuels into four categories, without incentivizing innovations within any category. Finally, it does not apply to certain corn ethanol production plants,

¹ 40 CFR section 80.1101(d)(1) and (2) provide the following definitions:

"(1) Renewable fuel is any motor vehicle fuel that is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to fuel a motor vehicle, and is produced from any of the following: (i) Grain; (ii) Starch; (iii) Oilseeds; (iv) Vegetable, animal, or fish materials including fats, greases, and oils; (v) Sugarcane; (vi) Sugar beets; (vii) Sugar components; (viii) Tobacco; (ix) Potatoes; (x) Other biomass; (xi) Natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where there is decaying organic material.

(2) The term 'Renewable fuel' includes cellulosic biomass ethanol, waste derived ethanol, biodiesel (mono-alkyl ester), non-ester renewable diesel, and blending components derived from renewable fuel."

thus providing no incentive for reducing the carbon intensity from their fuels.

By contrast, the LCFS regulates all transportation fuels, including biofuels and non-biofuels, with a few narrow and specific exceptions. Thus, non-biofuels such as compressed natural gas, electricity, and hydrogen may play important roles in the LCFS program. In addition, the LCFS encourages much greater innovation than the federal program by providing important incentives to continuously improve the carbon intensity of biofuels and to deploy other fuels with very low carbon intensities.

If California were to rely solely on the RFS (i.e., the “No LCFS” alternative), the State would neither achieve the fuel carbon intensity goals, nor stimulate the innovation needed to support future dramatic GHG reductions from the transportation sector. Because of these differences, the federal RFS regulatory program is complementary but not comparable to the LCFS.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, section 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.

DISCLOSURE REGARDING THE PROPOSED REGULATION

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, section 11346.5, subs. (a)(5) and (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.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency, would not create costs or savings in federal funding to the State, and would not create costs or savings nor create a 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.

That said, in the unlikely case where the credit clearance market is held due to a shortage of credits, the proposed amendments may lead to indirect fiscal impacts to the State and local governments. The proposed

amendments may lead to lower LCFS credit prices, which may translate to lower gasoline and diesel prices and subsequently lower sales taxes for the State and local governments. Lower gasoline and diesel prices may also reduce the cost of acquiring fuel for State and local fleets. Lower LCFS credit prices may also lead to lower revenues from State and local agencies that utilize alternative fuels such as electricity and renewable natural gas as transportation fuels.

Housing Costs (Gov. Code, section 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, sections 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 directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

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

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

(A) The creation or elimination of jobs within the State of California.

The proposed amendments are not expected to result in creation or elimination of jobs within the State of California.

(B) The creation of new business or the elimination of existing businesses within the State of California.

The proposed amendments are not expected to result in creation of new businesses or the elimination of existing businesses within the State of California.

(C) The expansion of businesses currently doing business within the State of California.

The proposed amendments are not expected to result in expansion of businesses currently doing business within the State of California.

(D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.

The proposed amendments are not expected to result in direct benefits to the health and welfare of California residents, worker safety, and the state’s environment. However, the amendments will bolster the existing cost containment provisions of the regulation, and ensure the long-term success

of the program. The success of the program is essential for California to achieve its climate change goals, and may contribute to improvement in air quality in the State and subsequently lead to improvement in California residents' health. The LCFS also contributes to decreasing the dependence of California on fossil fuels, and in diversifying the State's transportation fuel pool, which will protect the California economy and residents from exogenous changes in the prices of fossil fuels. The proposed amendments also establish a framework in which electric utilities are required to contribute a certain percentage of the credits they generate for the benefit of disadvantaged and low-income communities.

Effect on Jobs/Businesses:

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

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to strengthen the cost containment provisions of the LCFS program and to support GHG and criteria pollutant reductions in disadvantaged communities.

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 on pages four to five.

Business Report (Gov. Code, sections 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, section 11346.5 subd. (a)(9)):

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

Effect on Small Business (Cal. Code Regs., tit. 1, section 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 not affect small businesses because the proposed amendments are not expected to alter the compliance action of regulated entities.

That being said, all small businesses in California that are directly participating in the LCFS are low-CI fuel producers that would benefit from continued success of the LCFS program, as they generate LCFS credits which they can monetize. The improved cost containment mechanisms, will provide greater certainty to the credit market certainty, and ensure the long-term success of the program, indirectly benefitting small businesses in California.

Consideration of Alternatives (Gov. Code, section 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.

The Executive Officer analyzed several alternatives to the proposed regulations and summarized the findings of this analysis in Chapter IX of the ISOR, and the rationale behind rejecting them in favor for the proposed amendments. The following is a brief summary of the alternatives proposed and the rationale for rejecting them:

1. Borrowed Credits from Regulated Entities Other than EDUs: Several stakeholders proposed to allow other regulated entities to generate borrowed credits. Staff rejected the alternative due to difficulty in implementation and risks affiliated with recouping such credits.
2. No Maximum Price Cap for Regular LCFS Credit Transactions: Several Stakeholders proposed to remove the requirement to limit all credit transactions in the LCFS below the maximum price cap of \$200 in 2016, adjusted for inflation. Staff rejects this alternative as it will not ensure the kind of cost containment that a "price cap" on LCFS credit transactions would otherwise achieve.
3. Vintage Years for LCFS Credits: A stakeholder proposed an alternative where LCFS credits are

assigned a vintage year. Staff does not consider that this alternative will improve the cost containment provision of the LCFS. Introducing vintage years will reduce the flexibility of compliance responses by regulated entities.

4. Issue an Unlimited number of Borrowed Credits: Several stakeholders proposed to alter the proposed amendment so that the number of borrowed credits is unlimited. Staff rejected this proposal as it may result in fewer reductions in GHG emissions attributable to the LCFS, and thus the alternative is not consistent with staff's stated principles for this rulemaking and with the State's Scoping Plan objectives.
5. Implementing a Price Floor: A stakeholder proposed an alternative with a price floor. Staff rejected the proposal as it is outside the scope of this rulemaking.
6. Adjust CI Targets Downwards in Case of Shortage: A stakeholder proposal potentially decreasing the stringency of the LCFS targets in the event that a credit shortfall occurs. The alternative was rejected because it compromises the environmental integrity of the program, may further destabilize the LCFS credit market by creating additional uncertainty, and fails to support future investments in low-carbon fuels.

ENVIRONMENTAL ANALYSIS

When the Proposed Amendments to the Low Carbon Fuel Standard and Alternative Diesel Fuels Regulation was proposed in 2018, CARB prepared an environmental analysis (EA) under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5). The EA, included in Appendix D of the ISOR entitled Appendix D: Final Environmental Analysis Prepared for the Proposed Amendments to the Low Carbon Fuel Standard and the Alternative Diesel Fuels Regulations, dated 2018, determined the LCFS could result in adverse impacts to less-than-significant impacts to odors, short-term construction-related energy demand, GHG emissions, long-term hazard and hazardous materials, population, employment and housing, public services, and recreation; and potentially significant and unavoidable adverse impacts to aesthetics, agricultural resources, air quality, biological resources, cultural resources, energy demand, geology, soil and minerals, short-term construction-related hazard and hazardous materials, hydrology and water quality, land use and planning, min-

eral resources, noise, transportation and traffic, and utility and service systems. Staff has determined that no additional environmental review is required for the current proposed amendments because there are no changes proposed to the originally approved project that involve new significant environmental effects or a substantial increase in severity of previously identified significant effects than previously identified in the prior 2018 EA. The basis for reaching this conclusion is provided in Chapter VI of the ISOR report.

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 de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo u otro idioma; 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 envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Jim Duffy, Branch Chief, Transportation Fuels Branch at (916) 323-0015 or (designated back-up contact) Firas Abu-Sneneh, Air Pollution Specialist, Alternative Fuels Section at (916) 323-1009.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled Staff Report: Initial Statements of Reason for the Proposed Amendments to the LCFS Regulation.

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, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on October 1, 2019.

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, California 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://ww2.arb.ca.gov/rulemaking/2019/lcfs2019>.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

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

Announcement of the Developmental and Reproductive Toxicant Identification Committee Meeting Scheduled for December 11, 2019, Notice of Availability of Hazard Identification Materials for Cannabis (Marijuana) Smoke and Delta-9-Tetrahydrocannabinol (THC) and Notice of Public Comment Period

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of Proposition 65¹. The Developmental and Reproductive Toxicant Identification Committee (DARTIC) of OEHHA's Science Advisory Board serves as the state's qualified experts and renders an opinion about whether a chemical has been clearly shown to cause reproductive toxicity.²

Cannabis (marijuana) smoke and Delta-9-tetrahydrocannabinol (THC) will be considered for possible listing by the DARTIC at a public

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

² Title 27, Cal. Code of Regs., section 25302 *et seq.*

meeting scheduled for **Wednesday, December 11, 2019**. The meeting will be held in the Sierra Hearing Room at the CalEPA Headquarters building, 1001 I Street, Sacramento, California. The meeting will begin at 10 a.m. and will last until all business is conducted or until 5:00 p.m. The agenda for the meeting will be provided in a future public notice published in advance of the meeting.

OEHHA announces the availability for public review of the hazard identification document entitled: “Evidence on the Developmental Toxicity of Cannabis (Marijuana) Smoke and Delta-9-THC”. The DARTIC will consider this document during its deliberations on the potential listings of cannabis (marijuana) smoke and Delta-9-tetrahydrocannabinol (THC). In preparing this document, OEHHA issued a public request for information relevant to the assessment of the evidence of reproductive toxicity (developmental endpoint) for cannabis and cannabis-related chemicals. The data call-in period opened on March 15, 2019 and closed on April 29, 2019. OEHHA considered information received from the data call-in in preparing the hazard identification document.

Copies of the document are available on OEHHA’s web site at www.oehha.ca.gov/proposition-65. The document may also be requested from OEHHA’s Proposition 65 Implementation Office by calling (916) 445-6900.

This notice marks the beginning of a 45-day comment period on this document. **OEHHA must receive comments and any supporting materials by Monday, November 18, 2019**. All timely filed public comments and supporting materials will be provided to DARTIC members in advance of the meeting. Public comments at the meeting will be limited to five minutes per commenter, except for those commenters who make requests by November 18, 2019 and receive approval from the Chair of the DARTIC for longer comments. If you would like to make public comments to the Committee exceeding five minutes, please submit a request with an estimate of the time you will need and the reason you are requesting additional time, to P65Public.Comments@oehha.ca.gov or call the Proposition 65 Implementation Office at (916) 445-6900 by November 18, 2019.

Comments on the hazard identification document may be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below.

Mailing Address:

Tyler Saechao
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS-12B
Sacramento, California 95812-4010

Street Address:

1001 I Street
Sacramento, California 95814
Fax: (916) 323-2265

Comments received during the public comment period will be posted on the OEHHA website in advance of the meeting. Electronic files submitted should not have any form of encryption because OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address and e-mail may be available to third parties.

If you have any questions, please contact Tyler Saechao at Tyler.Saechao@OEHHA.ca.gov or (916) 445-6900.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

**TITLE 27, CALIFORNIA CODE OF
REGULATIONS**

**PROPOSED AMENDMENT TO
SECTION 25600.2
RESPONSIBILITY TO PROVIDE CONSUMER
PRODUCT EXPOSURE WARNINGS**

As required by Government Code section 11346.8(c), and Title 1, section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of changes to the proposed regulatory action to amend Section 25600.2 of Title 27 of the California Code of Regulations. Section 25600.2 addresses the responsibility to provide consumer product exposure warnings for chemicals listed under Proposition 65.

The proposed regulation was originally the subject of a Notice of Proposed Rulemaking published on No-

vember 16, 2018, in the California Regulatory Notice Register (Register Number Z2018-1106-08), which initiated a 45-day public comment period. A public hearing was held on January 3, 2019, where OEHHA received oral comments from two commenters. Seven written comments were received during the extended comment period that closed on January 11, 2019.

After carefully reviewing the comments received, OEHHA has modified the proposed regulation in Section 25600.2(b) to clarify that compliance may be met so long as the business to which the authorized agent for a retail seller provides the written notice is subject to Section 25249.6 of Proposition 65. In addition, OEHHA has modified Section 25600.2(i) to clarify that entering into a written agreement is not limited to retail sellers, but that other intermediate parties — businesses to which they are selling or transferring product — may also enter into a written agreement. OEHHA is also making other modifications to Section 25600.2(b), (c) and (f) for clarity and consistency.

The full regulatory text with the modified language provided in double underline and double strikeout format is available on request from Monet Vela in the OEHHA Legal Office at monet.vela@oehha.ca.gov or (916) 323-2517.

OEHHA is requesting comments on the modifications to the regulatory text. In order to be considered, **OEHHA must receive comments by October 21, 2019, which is the designated close of the comment period.** All comments will be posted on the OEHHA website at the close of the public comment period.

Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form can be submitted by mail, fax, or hand-delivered to the address below.

Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
P. O. Box 4010
Sacramento, California 95812-4010

Telephone: 916-323-2517
Fax: 916-323-2610

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

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# 2019-0807-01
BOARD OF OCCUPATIONAL THERAPY
Sponsored Health Care Events

This change without regulatory effect repeals or amends existing regulations pertaining to sponsored health care events as required to be consistent with the repeal of Business and Professions Code section 901.

Title 16
AMEND: 4170
REPEAL: 4116, 4117, 4118, 4119
Filed 09/19/2019
Agency Contact: Ranjila Sandhu (916) 274-1078

File# 2019-0814-01
DEPARTMENT OF CORRECTIONS AND REHABILITATION
Copayment for Health Care Services

The Department of Corrections and Rehabilitation submitted this certificate of compliance action to make permanent emergency amendments to regulations addressing copayments and artificial appliances and a related incorporated by reference form. The amendments to the regulations eliminate copayments for health care services and payment for prescribed artificial appliances.

Title 15
AMEND: 3355.1 (renumbered to 3999.367), 3999.99, 3999.206, 3999.234, 3999.237, 3999.375 (renumbered to 3999.395)
Filed 09/24/2019
Effective 09/24/2019
Agency Contact: Julie Inderkum (916) 691-0697

File# 2019-0917-02
 DEPARTMENT OF FISH AND WILDLIFE
 Crab Trap Gear Retrieval Program
 This action establishes the Lost or Abandoned Dungeness Crab Trap Gear Retrieval Program.

Title 14
 ADOPT: 132.7
 AMEND: 132.2, 705
 Filed 09/20/2019
 Effective 09/20/2019
 Agency Contact:
 Morgan Ivens-Duran (831) 649-2811

File# 2019-0813-01
 DEPARTMENT OF HEALTH CARE SERVICES
 Amendment to Section 51479 — Change of Order or Prescription

In this change without regulatory effect, the Department corrects a cross-reference, which addresses refills of a dangerous drug or dangerous device. Business and Professions Code section 4229.5 was repealed and replaced with 4064. The regulation now reflects this statutory change. The regulation's subsections are also renumbered and Health and Safety Code section 20 is added as an authority citation.

Title 22
 AMEND: 51479
 Filed 09/23/2019
 Agency Contact: Abdul Amiri (916) 552-9283

File# 2019-0816-03
 FISH AND GAME COMMISSION
 Commercial Fishing Logbooks

This action by the Fish and Game Commission revises language relating to the submission fishing activity records of commercial passenger fishing vessels.

Title 14
 AMEND: 190
 Filed 09/23/2019
 Agency Contact: Jon Snellstrom (916) 654-9868

File# 2019-0829-04
 OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT
 Patient Data Reporting — Inpatient Expected Source of Payment Update

This action by the Office of Statewide Health Planning and Development removes the list of plan names and plan code numbers for managed care plans under Knox-Keene/Medi-Cal County Organized Health System and provides instructions for reporting identifying and reporting plan codes.

Title 22
 AMEND: 97232
 Filed 09/23/2019
 Agency Contact:
 Kimberly Gustafson (916) 326-3939

File# 2019-0903-03
 STATE COMPENSATION INSURANCE FUND
 Conflict-of-Interest Code

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

Title 2
 AMEND: 52400
 Filed 09/18/2019
 Effective 10/18/2019
 Agency Contact: Susan Davey (916) 924-6342

**PRIOR REGULATORY
DECISIONS AND CCR
CHANGES FILED WITH THE
SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit www.oal.ca.gov.