



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. CALIFORNIA PUBLIC
EMPLOYEES’ RETIREMENT SYSTEM**

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees’ Retirement System (CalPERS) proposes to take the regulatory action described below in the Informative Digest after considering public comments, objections, or recommendations regarding the proposed regulatory action.

I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes adding Article 1.5, “Administration”, to Subchapter 2 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations and proposes adding section 592.1, “Social Security Administrative Fees” under Article 1.5. The proposed regulatory action seeks to establish fees payable by certain public agencies per Government Code (GC) sections 22551, 22552, and 22560, which is necessary for the continued administration of the State Social Security Administrator (SSSA) program.

II. WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period has been established commencing on **November 1, 2019** and closing on **December 17, 2019**. The Regulation Coordinator must receive all written comments by the close of the comment period. Comments may be submitted by e-mail to Regulation_Coordinator@calpers.ca.gov, or mailed to the following address:

Hoang Tran, Regulation Coordinator
California Public Employees’ Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702
Telephone: (916) 795-3038

III. PUBLIC HEARING

A public hearing will not be scheduled unless an interested person, or his or her duly authorized representative, submits a written request for a public hearing to CalPERS no later than 15 days before the close of the written comment period. Notice of the time, date, and place of the hearing will be provided to every person who has filed a request for notice with CalPERS.

IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and the room can be made accessible to persons with hearing or visual impairments upon advance request to the CalPERS Regulation Coordinator.

V. AUTHORITY AND REFERENCE

Under GC section 22500, the Board has authority to take regulatory action to carry into effect the provisions of Part 4, “Federal Old Age and Survivors’ Insurance”, under Division 5 of Title 2 of the Government Code. The proposed regulation establishes a fee to administer the SSSA program per GC sections 22551, 22552, and 22560.

**VI. INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

In 1955, the Governor’s Office designated CalPERS as the SSSA for the State of California per GC sections 22200 and 22204. The Social Security Administration (SSA) requires each state to designate an official to administer the state’s Section 218 Agreement. A Section 218 Agreement is a voluntary agreement between the state and the SSSA to provide Social Security and Medicare coverage for state and local government employees. CalPERS’ SSSA program processes requests from public agencies for coverage under the State of California’s Section 218 Agreement and for modifications thereto, executes annual employer information requests, responds to employer inquiries, and performs education and outreach.

Between 1955 and 1986, the SSSA was also responsible for collecting Social Security and Medicare taxes from all public agencies in California. CalPERS stopped collecting taxes from public agencies when the Omnibus Budget Reconciliation Act of 1986 moved the responsibility of collecting taxes from CalPERS to the Internal Revenue Service. The SSSA has been operating since 1987 using the interest that was earned in the Old Age and Survivors’ Insurance (OASI) Revolving Fund per GC section 22601. The OASI Fund reserves

have diminished and SSA does not provide any funding for the SSSA program. GC sections 22551, 22552, and 22560, however, authorize CalPERS to collect fees from public agencies to cover the costs associated with administering the SSSA program.

This proposed regulation would establish a new fee structure to fund the SSSA program for public agencies whose employees are or will be covered by the State's Section 218 Agreement.

Consistency Evaluation

CalPERS conducted a review for any related State regulation and found that there are no other State regulations concerning the implementation of fees for the SSSA program. Therefore, CalPERS has determined that the proposed regulation is not inconsistent or incompatible with existing regulations.

Anticipated Benefit

Adoption of this regulation will benefit public agencies by providing a sustainable funding source for the SSSA program, a transparent fee structure, and an inflation adjustment calculation.

VII. PRENOTICE CONSULTATION WITH THE PUBLIC

No prenotice consultation with the public was done, as all public comments and hearing requests can be submitted during the written comment period.

VIII. EFFECT ON SMALL BUSINESS

The regulatory action does not affect small private businesses. The proposed regulation only applies to public agencies that have requested or that will request that their employees be covered under the State's Section 218 Agreement.

IX. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Board has made the following initial determinations:

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose mandates on local agencies and school districts.
- B. **COSTS OR SAVINGS TO ANY STATE AGENCY:** State agencies covered under the State's Section 218 Agreement will incur costs associated with this proposed regulation. There is an annual fee ranging from \$200 to \$2,500 depending on the number of employees per state agency.

- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** Local agencies and school districts that have requested or that will request to have their employees be covered under the State's Section 218 Agreement will incur costs associated with this proposed regulatory action. There is a \$650 fee to establish coverage or modify an existing coverage under the State's Section 218 Agreement and an annual fee ranging from \$200 to \$2,500 depending on the number of employees per local agency or school district.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** Local agencies that have requested or that will request to have their employees be covered under the State's Section 218 Agreement will incur costs associated with this proposed regulation. There is a \$650 fee to establish coverage or modify an existing coverage under the State's Section 218 Agreement and an annual maintenance fee ranging from \$200 to \$2,500 depending on the number of employees per local agency.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action will not result in costs or savings in federal funding to the State of California.
- F. **ADVERSE ECONOMIC IMPACT:** The proposed regulatory action will not have a significant statewide adverse economic impact affecting businesses including the ability of businesses in California to compete with businesses in other states.
- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action because the proposed regulatory action only applies to public agencies that have requested or that will request to have their employees be covered under the State's Section 218 Agreement.
- H. **RESULTS OF THE ECONOMIC IMPACT ANALYSIS:** The primary benefit of the proposed regulatory action is that it will generate needed revenue for the SSSA program while providing transparency and clarity for public agencies that have requested or that will request to have their employees be covered under the State's Section 218 Agreement. The proposed regulatory action is not intended to create or eliminate jobs within California; and will not: (1) create new businesses or eliminate existing businesses within California; (2) affect the expansion of businesses currently

doing business within California; or (3) affect the health and welfare of California residents, worker safety, or the State's environment.

- I. EFFECT ON HOUSING COSTS: The proposed regulatory action has no effect on housing costs.
- J. COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GC SECTION 17500 THROUGH SECTION 17630: There are no costs to any local agency or school district which must be reimbursed in accordance with GC section 17500 through section 17630.

X. CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5(a)(13), the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be:

- more effective in carrying out the purpose of the proposed action,
- as effective as, and less burdensome to affected private persons than the proposed action, or
- more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

XI. CONTACT PERSON

Inquiries concerning the proposed administrative action may be delivered to:

Hoang Tran, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702
Telephone: (916) 795-3038

The backup contact person for these inquiries is:

Anthony Martin
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702
Telephone: (916) 795-3038

Please direct requests for copies of the proposed text of the regulation, the Initial Statement of Reasons, the modified text of the regulation, if any, or other informa-

tion upon which the rulemaking is based to Hoang Tran, Regulation Coordinator at the above address.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at 400 Q Street, Sacramento, CA 95811. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. Copies may be obtained by contacting the CalPERS Regulation Coordinator at the mailing address or phone number listed shown in Section XI.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' website at <https://www.calpers.ca.gov/page/about/laws-regulations/regulatory-actions>.

XIII. AVAILABILITY OF CHANGED OR MODIFIED TEXT

After receiving comments from the public and considering all timely and relevant comments received, the Board may adopt the proposed regulation 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 for at least 15 days before the Board adopts the regulation as revised. Please send requests for copies of any modified regulation to the attention of the CalPERS Regulation Coordinator at the mailing address shown in Section XI. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

XIV. AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the CalPERS Regulation Coordinator at the mailing address shown in Section XI.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Gov-

ernment Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODE

AMENDMENT

STATE AGENCY:

Department of State Hospitals
Department of Consumer Affairs

ADOPTION

MULTI-COUNTY: John Adams Academy

A written comment period has been established commencing on November 1, 2019 and closing on December 16, 2019. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than December 16, 2019. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

**EFFECT ON HOUSING
COSTS AND BUSINESSES**

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 324-3854.

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

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

**TITLE 5. COMMISSION ON
TEACHER CREDENTIALING**

The Commission on Teacher Credentialing (Commission) proposes to take the regulatory action described below after considering all comments, objections, and recommendations regarding the proposed action. A copy of the proposed regulations is attached with the added text underlined and the deleted text lined out.

The Commission has not scheduled a public hearing on this proposed action. However, the Commission will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by email relevant to the proposed action. The written comment period closes on December 16, 2019. Comments must be received by that time. You may fax your response to (916) 322-0048; write to the Commission on Teacher Credentialing, attn. Vanessa Ragudo, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email to vragudo@ctc.ca.gov.

AUTHORITY AND REFERENCE

Education Code section 44225 authorizes the Commission to adopt the proposed regulations. The proposed regulations implement, interpret, and make specific Education Code section 44235 pertaining to fees.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

This rulemaking action proposes amendments to Title 5 of the California Code of Regulations (CCR) related to credential fees as approved by the Commission at the August 2019 meeting. The proposed amendments also include general clean-up of the regulation section.

The proposed amendments to Title 5 of the California Code of Regulations (CCR) will align the application processing fee with that originally set in the 2015-16 Budget Act (AB 104, Chap. 13, Stats. 2015). In addition, the proposed amendments update the fee required for processing fingerprints through the Federal Bureau of Investigation and delete all references to duplicate documents and name changes.

The Commission on Teacher Credentialing (Commission) is referred to as a “special fund” agency because the daily operations of the agency are supported by two special funds: (1) Teacher Credentials Fund; and (2) Test Development and Administration Account. The Commission does not receive a General Fund allocation to support its daily operations. The support comes from the fees collected as the result of issuing credentials and administering the various educator preparation examinations for candidates.

The credential fee, established annually in the Budget Act, had fallen below the statutory limit of \$70 at the direction of the Administration and the Legislature since 1998, and was at \$55 from 2000-2012. The credential processing fee restoration included in the 2012-2013 Budget Act (AB 1464, Chap. 21, Stats. 2012) aligned the credential fee with the statutory limit of \$70. However, as noted at the June 2013 Commission meeting, this action would only partially address the deficit issue and additional measures required at the time to address the deficit would only provide a temporary solution to the issue of maintaining a stream of revenue sufficient to support the operating budget of the Commission. The 2015-16 Budget Act amended Education Code (EC) section 44235 and set the statutory limit for credential fees at \$100. Aligning the credential application fee in regulations with the current limit will allow the Commission to maintain the essential functions of the agency.

BENEFITS OF THE REGULATIONS

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by allowing the Commission to maintain the essential functions of the agency, and fulfill its mission to ensure integrity, relevance, and high quality in the preparation, certification, and discipline of the educators who serve all of California’s diverse students. The Commission does not anticipate that the proposed regulations will result in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business and government.

**EVALUATION OF
INCONSISTENCY/INCOMPATIBILITY WITH
EXISTING STATE REGULATIONS**

The proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, these are the only regulations that concern credential fees as approved by the Commission.

PROPOSED AMENDMENTS TO REGULATIONS

Section 80487

(a)(1): Proposed amendments to this subsection amend the application processing fee to the current statutory limit of \$100.00 to align with EC section 44235 and add “a” before “credential” to correct a former typographical error.

(a)(2): Proposed amendments delete all references to requests for duplicate documents as well as the language pertaining to lost or destroyed documents as the Commission discontinued the printing of documents on September 1, 2008. The official record of credentials, permits, authorizations, and certificates is the Commission’s website per 5 CCR section 80001(e). The proposed amendments also delete the processing fee for name change requests, which can be done at no cost but still require a physical application and submission of pertinent legal documentation. Individuals may now update their other personal information (address, telephone number, and email address) free of charge via the CTC Online system implemented May 29, 2012.

Proposes adding the phrase “upgrading a Certificate of Eligibility to a preliminary” to make specific the process of how to change the certificate into a valid credential eligible for employment use.

(a)(5): Proposed amendments to this subsection align the fee with the current charges assessed by the Federal Bureau of Investigation.

(b): Proposed amendments delete all references to requests for duplicate documents as well as the language pertaining to lost or destroyed documents as the Commission discontinued the printing of documents on September 1, 2008. The official record of credentials, permits, authorizations, and certificates is the Commission’s website per 5 CCR section 80001(e). The proposed amendments also delete the processing fee for name change requests, which can be done at no cost but still require a physical application and submission of pertinent legal documentation. Individuals may now update their other personal information (address, telephone number, and email address) free of charge via the CTC Online system implemented May 29, 2012.

(e): Proposed addition of the word “met” for clarity.

Note: Proposing deletion of EC section 44352 as a Reference as that statute pertains to duplicate documents, but the Commission discontinued the printing of documents on September 1, 2008. The official record of credentials, permits, authorizations, and certificates is the Commission’s website per 5 CCR section 80001(e). In addition, proposing the deletion of EC sections 44253.10 and 52178 as References, which should have been deleted when section 80487 was last amended in

2007 (section 44253.10 pertains to issuance of the Certificate of Completion of Staff Development and section 52178 pertains to bilingual education — topics no longer included in 5 CCR section 80487). Also proposing the deletion of EC section 52134 as a Reference as this section of EC was repealed with the passage of Assembly Bill 2587 (Chapter 922, Statutes 1994).

DOCUMENTS RELIED UPON IN PREPARING REGULATIONS

August 2019 Commission agenda item 4A: <https://www.ctc.ca.gov/docs/default-source/commission/agendas/2019-08/2019-08-4a.pdf>.

June 2015 Commission agenda item 4A: <http://www.ctc.ca.gov/commission/agendas/2015-06/2015-06-4A.pdf>.

Coded Correspondence 15-04: <http://www.ctc.ca.gov/notices/coded/2015/1504.pdf>.

DISCLOSURES REGARDING THE PROPOSED ACTIONS

The Commission has made the following initial determinations:

Mandate to local agencies or school districts: None.

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

Cost or savings to any state agency: None.

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

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

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

In accordance with Government Code section 11346.3(b), the Commission has made the following assessments regarding the proposed regulation amendments:

Creation or Elimination of Jobs Within the State of California

The proposed amendments pertain to teaching credentials that authorize service in California’s public schools. The proposed amendments will not create or eliminate jobs in California.

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

The proposed amendments pertain to teaching credentials that authorize service in California’s public schools. The proposed amendments will not create or eliminate existing businesses in California.

Expansion of Businesses or Elimination of Existing Businesses Within the State of California

The proposed amendments pertain to teaching credentials that authorize service in California’s public schools. As a result of the proposed amendments, no existing businesses in California will be expanded or eliminated.

Benefits of the Regulations

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by allowing the Commission to maintain the essential functions of the agency, and fulfill its mission to ensure integrity, relevance, and high quality in the preparation, certification, and discipline of the educators who serve all of California’s diverse students. The Commission does not anticipate that the proposed regulations will result in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business and government.

Effect on Small Businesses

The proposed amendments do not affect small businesses because they only apply to individuals seeking teaching credentials that authorize service in California’s public schools.

CONSIDERATION OF ALTERNATIVES

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

Evidence Relied Upon to Support the Initial Determination That the Regulation Will Not Have a Significant Adverse Economic Impact on Business: The proposed regulations will not have a significant adverse economic impact upon business. The proposed

regulations apply only to individuals seeking teaching credentials that authorize service in California’s public schools.

CONTACT PERSON/FURTHER INFORMATION/AVAILABILITY OF THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

General or substantive inquiries concerning the proposed action may be directed to Vanessa Ragudo by telephone at (916) 323–8758 or Vanessa Ragudo, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed to David Crable at (916) 323–5119 or at the address mentioned in the previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission’s website at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

AVAILABILITY OF THE RULEMAKING FILE

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. Copies may be obtained by contacting Vanessa Ragudo at the address or telephone number provided above.

MODIFICATION OF PROPOSED ACTION

If the Commission proposes to modify the actions hereby proposed, the modifications (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public comment period. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Vanessa Ragudo.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regula-

tions in underline and strikeout can be accessed through the Commission’s website at www.ctc.ca.gov.

TITLE 8. CALIFORNIA APPRENTICESHIP COUNCIL

SECTIONS 202, 205, 227, 228,
229 and 230.1, and 231–232.7

Notice is hereby given that the California Apprenticeship Council (“Council”) proposes to amend sections 202, 205, 227, 228, 229 and 230.1, and to repeal sections 231 through 232.7 of its regulations in Division 1, Chapter 2, of Title 8 of the California Code of Regulations. The Council proposes to amend and repeal these regulations pursuant to its general rulemaking authority under Labor Code Section 3071 and its specific rulemaking authority under Labor Code Section 1777.7, with respect to the employment of registered apprentices on public works. The Council is proposing amendments for the purpose of implementing, interpreting, and making more specific the requirements of Labor Code Sections 1777.5 and 1777.7. These amendments will revise the definition of “apprenticeable occupation,” add definitions of “work process” and “registered apprentice,” restate the scope of apprenticeship public works regulations, delete a definition of “worker,” restate and clarify the requirements for employing apprentices at apprentice rates, including related notification requirements. The Council also proposes to amend two sections in order to revise cross-references to other procedural regulations, and it proposes to repeal a full set of hearing regulations rendered obsolete by the 2012 and 2014 amendments to Section 1777.7. (Stat. 2012, ch. 46, section 96 (SB 1038) and Stat. 2014, ch. 297 section 3 (AB 2744).)

In addition, the Council is proposing additional amendments to sections 205 and 212.2 that are part of a separate rulemaking on Apprenticeship Program Applications, Evaluations, and Reporting to implement SB 56 (2011) and certain parts of AB 235 (2018). Those amendments are included here to insure the public is aware of all changes under consideration and avoid the possibility of the Council adopting different versions of the same sections.

PUBLIC HEARINGS

The Council will hold public hearings on these proposals as follows:

December 12, 2019 at 10:00 a.m.
until all comments have been received.
Junipero Serra State Building, Carmel Room
320 W. Fourth Street
Los Angeles, CA 90013

December 16, 2019 at 10:00 a.m.
until all comments have been received.
Elihu Harris Oakland State Building, Room 12
1515 Clay Street
Oakland, CA 94612

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposals. The Council 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 person or authorized representative may submit written comments relevant to the proposals by mail or delivery to Eric Rood, Council Secretary and Chief, Division of Apprenticeship Standards (“DAS”), 1515 Clay Street, Suite 301, Oakland, CA 94612 or by email to CACsuggest@dir.ca.gov. To be considered, written comments must be received by the Council no later than 5:00 p.m. on December 18, 2019.

AUTHORITY AND REFERENCE

Authority: Labor Code Sections 1777.7 and 3071.
Reference: Labor Code Sections 1777.5, 1777.6, 1777.7, 3073.1, 3075, 3075.5, 3075.6 and 3075.7 of the Labor Code.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

The Council and DAS oversee and regulate apprenticeship programs in the State of California. The Council’s responsibilities include adopting regulatory standards governing the approval and operation of building and construction industry trades and firefighter programs, consistent with statutory requirements. The DAS’s responsibilities include approving and auditing programs, in accordance with standards adopted by the Council, to give workers skills and training needed to obtain well-paying jobs and provide employers with a highly skilled and experienced workforce.

This rulemaking focuses on the employment of apprentices on public works, which is governed by requirements and procedures set forth in Labor Code Sections 1777.5, 1777.6, and 1777.7. The Council’s regulatory authority with respect to these requirements is set

forth in subdivision (g) of Section 1777.7, as follows. “The interpretation of Section 1777.5 and the substantive requirements of this section applicable to contractors or subcontractors shall be in accordance with the regulations of the California Apprenticeship Council.” In other words, the Council establishes the rules on how to interpret and comply with statutory requirements.

Hearing Regulations: Historically, the DAS enforced the statutory and regulatory requirements governing the employment of apprentices on public works, through a penalty assessment and appeals process prescribed in prior versions of Section 1777.7. However, a 2012 amendment to that section (Stat. 2012, ch. 46, section 96 (SB 1038)) shifted these enforcement responsibilities from DAS to the Division of Labor Standards Enforcement (DLSE), which historically had authority to enforce all other public works requirements in the Labor Code. The same amendment eliminated the separate appeal process for DAS determinations in Section 1777.7, and required instead that determinations and appeals follow the same procedures prescribed for civil wage and penalty assessments and appeals (for prevailing wage violations) in Labor Code Section 1742. In 2014, Section 1777.7 was rewritten to more closely resemble the prevailing wage enforcement and appeal procedures, including a requirement for DLSE to issue a civil wage and penalty assessment in accordance with Labor Code Section 1741, when determining and assessing penalties for public works apprenticeship violations. (Stat. 2014, ch. 297 section 3 (AB 2744).)

These statutory amendments to Labor Code Section 1777.7 made the Council’s regulations on hearings and appeals from DAS determinations obsolete. Accordingly, the Council proposes to repeal those regulations at sections 232 through 234.2 of title 8. Most of these regulations are wholly superseded by the statutory amendments, making the repeal of those regulations “changes without regulatory effect” as defined in 1 Cal. Code Reg. section 100(a)(6). In addition, while repeal of 8 Cal. Code Reg. sections 229, 231, 234.1, and 234.2 is not compelled by the legislative changes, the Council believes those sections are unnecessary and redundant to other statutory and regulatory provisions. Finally, other regulations need to be amended in order to cross-reference the prevailing wage hearing regulations at 8 Cal. Code Reg. section 17201 et seq. rather than the obsolete hearing regulations being repealed through this rulemaking.

Definitions and Notice Requirements: Labor Code Section 1777.5 encourages contractors and subcontractors to employ registered apprentices on public works projects, including by authorizing payment of apprentice wage rates in lieu of the substantially higher journey level prevailing wages. To qualify for the lower wage rates, apprentices must be registered with DAS,

training under DAS–approved apprenticeship standards (*i.e.* with a DAS/CAC–approved program), and at specified minimum ratio of apprentices to journey-worker. Apprentices may only be employed at the work of the craft or trade to which they are registered.

A contractor who employs workers in an “apprenticeable craft or trade” can have apprentices dispatched to a public works project by applying “to any apprentice program in the craft or trade that can provide apprentices to the site” or by obtaining them from an approved program that already covers the contractor’s work. The statute defines “apprenticeable craft or trade” as “a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council.” (section 1777.5(d).)

Subdivision (e) of Section 1777.5 requires contractors to send public works contract award information to apprenticeship programs that can supply apprentices to the work site. Notice requirements and time limits are spelled out in greater detail in 8 Cal. Code Reg. section 230. The following section 230.1, sets forth, among other things, requirements and time frames for requesting a program to dispatch apprentices to a job site.¹ A large number of penalty assessments under Labor Code Section 1777.7 arise from violations of these requirements, which have the effect of depriving apprentices of training opportunities on public works. This rulemaking seeks to address specific issues that have come to light over the last several years, that make these requirements difficult to enforce and are attributable to a lack of clear or specific regulatory standards. The statutory definition of “apprenticeable craft or trade” offers no guidance on what craft or trade an apprentice belongs to when performing a particular type of work and what wage must be paid to that apprentice on a public works project. As consequence, the Council, on October 30, 2014, adopted a Resolution on Employment of Apprentices on Public Works, which interpreted Section 1777.5 as requiring that the work process in which the apprentice is engaged be part of the apprenticeship program’s approved training standards, in order to qualify for the lower apprentice wage rate.² The Council now proposes to do by adopting regulatory definitions of

¹ Contractors typically use the DAS Form 140 to comply with section 230, and the DAS Form 142 to comply with section 230.1, and the form numbers sometimes serve as a shorthand designation for the required notification procedures.

² A worker who does not meet the prescribed standards for receiving apprentice wages must be paid the journey level prevailing wage, regardless of qualifications or experience, consistent with the public works law’s overall objectives of protecting and benefiting workers on public works project and in turn providing the public with the skills and efficiency of well–paid workers. (*Lusardi Construction v. Aubry*, 1 Cal.4th 976 at 987 (1992).)

“apprenticeable occupation,” “work process” and “registered apprentice,” as well as more specific standards on the use of apprentices. In addition, the Council proposes to delete a definition of “worker” in 8 Cal. Code Reg. section 228 that is both unnecessary and potentially in conflict with the broader understanding of that term in prevailing wage law.

DLSE has also run into difficulty enforcing the contract award information requirements in 8 Cal. Code Reg. section 230 and the request for dispatch of apprentice requirements in section 230.1, due to the lack of instructions in section 230 on how that notice must be transmitted, and the absence of any standards in either regulation concerning what constitutes proof that the required notice or request was actually sent to the intended recipient. These proposals address those concerns by establishing clear service and record retention requirements for both items, and by giving the contractor or subcontractor the burden of showing the required item was sent.

Conforming amendments: One of the sections that the Council proposes to amend, 205, is the subject of a separate Council rulemaking to implement application, reporting, and evaluation requirements adopted in SB 56 and AB 235. The proposed amendments from that rulemaking included here for informational purposes and to avoid the possibility of the Council adopting inconsistent versions of these sections at the conclusion of this rulemaking.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

After conducting an evaluation of other regulations in this area, the Council has concluded that these are the only regulations concerning employment of apprentices on Public Works. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

SPECIFIC PROPOSALS

Section 202: This section governs investigations, hearings, and determinations on apprenticeship complaints outside the context of public works. The Council proposes to change the cross-reference in subsection (c)(3) so that it refers to the prevailing wage hearing regulations (8 Cal. Code Reg. section 17201 et seq.) rather than the obsolete regulations (section 232 et seq.) being repealed.

Section 205 sets forth regulatory definitions for the subchapter on Apprenticeship in Title 8. The Council proposes to add an additional sentence to the definition of “apprenticeable occupation” and to adopt new regulatory definitions of the terms “work process” and “registered apprentice.” These proposals also carry over two changes from the SB 56 rulemaking: changing the term “journeyman” to “journeyworker” and adding a new definition of “acceptable electronic format” for purposes of meeting statutory electronic submission requirements imposed on building and construction trades industry programs.

Section 227 sets forth the Scope and Application of the regulations in Article 10 on the use of apprentices on public works. The Council proposes to restate this section, consistent with the other substantive proposals included in this rulemaking.

Section 228 is another set of definitions applicable to the public works apprenticeship regulations. The Council proposes to delete this section’s definition of “worker.”

Section 229 governs Service, Notice, and Computation of Time requirements for notices required by the public works apprenticeship regulations. The Council proposes to make minor clarifying edits to the existing text of subsections (a), (b), and (c), and to add a new subsection (d) to set forth specific service, record retention, and burden of proof requirements for the contract award information and request for dispatch of apprentice required under sections 230 and 230.1. The Council also proposes to add a new subsection (e) clarifying that requests for review of a civil wage and penalty assessment are governed by the prevailing wage hearing regulations at 8 Cal. Code Reg. section 17201 et seq. rather than this section.

Section 230.1 governs the Employment of Apprentices on Public Works. The Council proposes to redraft subsection (c) to set forth its interpretation of the statutory requirements with more specificity, including that apprentices be training under program standards that include the work processes the apprentice is performing and that they not be assigned work outside those work processes.

Section 231 governed complaints and determinations on public works apprenticeship violations prior to the 2012 and 2014 amendments to Labor Code Section 1777.7. The Council proposes to repeal this section.

Sections 232 through 232.70 are obsolete sections governing appeals and hearings on public works apprenticeship violations prior to the 2012 and 2014 amendments to Labor Code Section 1777.7. The Council proposes to repeal these sections.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Council has made the following initial determinations with respect to these proposals and invites further comment on these specific impacts:

- Costs or savings for state agencies: These proposals are expected to save DLSE the cost of investigating and enforcing complaints over dispatch violations in which the contractor has failed to maintain copies of required notices. The anticipated savings are approximately \$17,000 per year (based on a reduction of 10 complaints a year, which is 1/6 the caseload of a DLSE investigator at a median cost of \$100,000 per year).
- Local Mandate: **None.**
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: **None.**
- Other nondiscretionary costs or savings imposed upon local agencies: **None.**
- Costs or savings in federal funding to the state: **None.**
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: **None.**
- Impact on the creation or the elimination of jobs or business, and the expansion of businesses within the State of California, or effect on small businesses: **None.**
- Significant effect on housing costs: **None.**
- Cost impacts on representative private person or small business: **None.** The Council is not aware of any cost impacts that a representative private person or small business would necessarily incur in reasonable compliance with these proposals. The cost impacts of these proposals are limited to public works contractors and subcontractors engaged in apprenticeable trades. These proposals impose an express record retention requirement on all such contractors, something that is already a commonplace and prudent practice for the vast majority (98 percent or more) of them, in order to eliminate investigation and proof problems with those who claim either to have lost or never to have copied the notices.

The other potential and significant cost element of these proposals is limited to a handful of contractors who may be using registered

apprentices to perform specific work processes in which the apprentices are not being formally trained, that is, a contractor using registered apprentices and paying them apprentice rates for specific work processes in which the apprentices are not being formally trained. The Council believes the maximum collective impact on this handful of contractors is well under \$1 million annually and may be none at all when offset by increased productivity of better trained workers.

RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT

The Council has made initial determinations that these proposals: (1) will not create or eliminate any jobs; (2) will not create new businesses or eliminate existing businesses within the State of California; (3) will not affect the expansion of businesses currently doing business within the State of California; and (4) will not impact the regulation of health and welfare of California residents and worker safety.

BENEFITS OF THE PROPOSED ACTION

These regulations will clarify and make compliance with public works apprenticeship requirements easier, for the benefit of contractors, apprentices, and the public alike. They should also help curb the use of apprentices as cheap labor for work that is not part of their structured and approved training program. In addition, these regulations will make it easier for DLSE to enforce these requirements and save now devoted to adjudicating “my word against your word” disputes over whether and when required notices were sent.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Council must determine that no reasonable alternative considered by the Council or that has otherwise been identified and brought to the Council’s attention (1) would be more effective in carrying out the purpose for which the action is proposed; (2) would be effective and less burdensome to affected private persons than the proposed action; or (3) would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Council invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Deneen Phillips
California Apprenticeship Council
1515 Clay Street, Suite 301
Oakland, California 94612
Telephone: (510) 879-3966

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, or other information upon which the rulemaking is based to Ms. Phillips at the above address.

The backup contact person for these inquiries is:

Glen Forman, Deputy Chief
Division of Apprenticeship Standards
1515 Clay Street, Suite 301
Oakland, CA 94612
Telephone: (510) 879-3965

AVAILABILITY OF INFORMATION
PERTAINING TO THE PROPOSALS

The Council will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at the above address.

Website: Principal rulemaking documents, including the text, this notice, and the Initial Statement of Reasons may also be accessed through the Department of Industrial Relations’ website at www.dir.ca.gov/Rulemaking/DIRProposed.html.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Council may adopt the proposed regulations substantially as described in this notice. If the Council makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Council adopts the regulations as revised. Any such modifications will also be posted on the Department of Industrial Relations’ website listed above.

Requests for copies of any modified regulations may be sent to the attention of the contact person(s) listed above. The Council will accept written comments on

the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF
REASONS AND THE RULEMAKING FILE

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Council at the address indicated above, or accessed on the Department of Industrial Relations’ website listed above.

**TITLE 14. STATE MINING AND
GEOLOGY BOARD**

ARTICLE 14. APPEALS OF ORDERS TO
COMPLY WITH SMARA

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

PROPOSED REGULATORY ACTION

The SMGB proposes to amend sections 3940-3948 of Title 14 of the California Code of Regulations (CCR), Division 2, Chapter 8, Subchapter 1, Article 14, pertaining to appeals of orders to comply with the Surface Mining and Reclamation Act of 1975 (SMARA) as provided for in Public Resources Code (PRC) section 2774.1.

WRITTEN COMMENT PERIOD AND
PUBLIC HEARING

Any person, or an authorized representative, may submit written statements, arguments, suggestions, or comments related to the proposed regulatory action to the SMGB. These may be submitted by email to smgb@conservation.ca.gov or by mail to:

State Mining and Geology Board
801 K Street, MS 20-15
Sacramento, CA 95814
ATTN: Appeals of Orders to Comply

The 45-day written comment period closes on December 16, 2019. The SMGB will only consider comments received at the SMGB office by that date.

Pursuant to Government Code (GC) section 11346.8, the SMGB will hold a public hearing if it receives a

written request for a public hearing from any interested person, or an authorized representative, no later than 15 days before the close of the written comment period.

AUTHORITY AND REFERENCE

The SMGB is proposing to amend sections 3940–3948 of Title 14 of the CCR, Division 2, Chapter 8, Subchapter 1, Article 14 pursuant to the authority granted in SMARA, PRC section 2710 et seq., specifically PRC sections 2755 and 2759 to implement, interpret, and make specific PRC section 2774.1.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

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

The Department of Conservation’s (DOC), Division of Mine Reclamation (DMR) and the SMGB respectively provide lead agency assistance and oversight. Currently, the SMGB administers certain lead agency responsibilities under SMARA for 38 individual surface mining operations by conducting inspections, reviewing and approving financial assurance cost estimates, and undertaking compliance and enforcement actions when necessary.

EXISTING LAW

PRC Section 2207(e) explains that the lead agency, or the Board when acting as the lead agency, may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing Section 2207(e) and SMARA.

PRC Section 2774.1(a)(1) provides the conditions for a lead agency, the Board acting as a lead agency, or the Division on Mine Reclamation (DMR) to initiate an enforcement action, beginning with the issuance of a notice of violation to a mine operator.

PRC Section 2774.1(a)(2) provides the circumstances for a mine operator and a lead agency, the Board acting as a lead agency or DMR, to enter into a stipulated order to comply. A stipulated order to comply must include a schedule and time for compliance that is determined to be reasonable after considering the actions and legal processes required to correct the noticed violation.

PRC Section 2774.1(a)(3)(A) provides the process of issuing an order to comply to mine operators that do not comply with a notice of violation issued by a lead agency, the Board acting as a lead agency, or DMR. If the noticed operator does not comply with the notice of violation or commit to enter into a stipulated order to comply within 30 days of being served the notice, the lead agency, the Board acting as a lead agency, or the Supervisor may issue an order to comply requiring the operator to comply with SMARA. Moreover, if the operator is found to not have an approved reclamation plan or financial assurance they shall cease all further surface mining activities.

PRC Section 2774.1(a)(3)(B) further provides that an order to comply shall take effect 30 days following the service of the order to comply unless within the 30–day time span the operator appeals the order and requests a hearing before the lead agency, if the lead agency issued the order, or the Board, if the Supervisor issued the order. An order to comply is required to include which aspects of the mine are inconsistent with SMARA, a time for compliance determined to be reasonable, and the actions and legal processes required to correct the alleged violation.

PRC Section 2774.1(a)(3)(C) explains that an appeal of an order to comply shall be noticed and heard at a public hearing within 45 days of the filing of the appeal or a longer period as may be mutually agreed upon by the operator.

PRC Section 2774.1(c) provides the process for when an operator fails to comply with an order to comply or fails to submit a report or pay annual fees to the supervisor or lead agency as required in PRC Section 2207. This includes, an administrative penalty of no more than \$5,000 a day may be imposed by the supervisor or the lead agency on the operator that fails to comply. The penalty may be imposed administratively and can be determined by the nature, circumstances, extent, and gravity of the violation or violations, etc. Penalties that are collected must be used for purposes that cover the reasonable costs incurred by the Division or lead agency in implementing SMARA.

PRC Section 2774.1(d) provides circumstances for operators that violate or fail to comply with an order to comply or stipulated order to comply to be removed from the 3098-list published by the Division of Mine Reclamation. Also, the operator shall be removed from the list 10 days following a denial of an appeal at a public hearing unless the operator enters into a stipulated order to comply with a lead agency or the Division.

PRC Section 2774.4 provides the process for the Board to assume a lead agencies' authority under SMARA. The section authorizes the Board to exercise some or all of a lead agency's powers under SMARA if the lead agency has approved reclamation plans that are inconsistent with SMARA, failed to inspect mining operations, failed to seek forfeiture of financial assurances when necessary, failed to take proper enforcement action, or intentionally misrepresented the results of inspections required under SMARA.

PRC Section 2774.5 provides the process for the Board to act as a lead agency by default. The section provides that where a lead agency has at least one mining operation within its jurisdiction, but has no mining ordinance certified by the Board, the Board shall assume all duties of a lead agency as specific under SMARA.

PROPOSED ACTION

Amend Title 14 of the CCR, Sections **3940–3948**, **Appeals of Orders to Comply with SMARA**

The proposed regulatory action ensures the process of appealing orders to comply with SMARA are clearly and plainly explained to reflect changes to statute resulting from AB 1142. The purpose of the amended regulation is to define the procedures governing the appeal to the Board of orders to comply with SMARA issued by the supervisor of DMR, or by the Board when acting in the capacity of lead agency pursuant to PRC Section 2774.4 and 2774.5. These sections govern the appeal process including filing the appeal, determining jurisdiction over the appeal, the content of the administrative record, and the various steps involved in the hearing procedures that accompany the appeal of an order to comply.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATORY ACTION

The broad objective of the proposed regulatory action is to make procedural revisions and improvements to the appeals of orders to comply with SMARA process based primarily on statutory changes to PRC section 2774.1 caused by AB 1142. Furthermore, the proposed amended regulatory language is intended to ensure

mine operator accountability in cases where their mining operation does not comply with SMARA.

The proposed regulation defines the appeals process of orders to comply with SMARA to ensure due process. The SMGB also anticipates that the proposed regulatory action will benefit the environment and protect public health by providing a clear and consistent appeals process to ensure that enforcement actions are heard fairly and timely when addressing allegations of non-compliance with SMARA and the mining operation's approved reclamation plan.

CONSISTENCY WITH FEDERAL STATUTE AND REGULATION

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

CONSISTENCY WITH EXISTING STATE REGULATIONS

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

CEQA COMPLIANCE

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The SMGB has determined that the proposed regulatory action will not have an adverse economic impact on businesses and individuals statewide, including small businesses. Surface mining operations are statutorily required to adhere to SMARA and can be the subject of an enforcement action upon discovery of the violation(s). If the operation does not correct the noticed violation(s) in a timely manner, the lead agency is statutorily allowed to issue an order to comply. The proposed regulations simply amend the procedures for an operator appealing an order to comply issued by a lead agency or DMR. The proposed changes to existing regulations may affect small mining business only if the operator fails to comply with SMARA.

Significant effect on housing costs: None.

Business reporting requirement: The SMGB finds that this regulation does not impose reporting requirements on businesses.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

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

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

Benefits to the health and welfare of California residents, worker safety, and the state's environment: The SMGB anticipates that the proposed regulatory action will result in non-monetary benefits to public health and welfare, worker safety, and environmental safety. Operators and lead agencies are already familiar with existing processes for appealing orders to comply.

The proposed regulatory action conforms existing procedural requirements with changes made to the underlying statutory procedures that were revised because of AB 1142, and includes a new section outlining the steps for filing the intent to appeal. Providing a specific

and timely appeals process allows for due process for all parties and a thorough review of the grounds for the issuance of the order to comply. This will add benefit to public health and the protection of the environment by ensuring timely resolution of alleged violations at mining operations found throughout the State.

CONSIDERATION OF ALTERNATIVES

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

The alternative to the proposed regulatory amendments of producing no action would conflict with statutory requirements set forth by AB 1142 and could result in confusion by appellants of an order to comply attempting to reconcile existing public hearing procedures with the applicable revised statutory requirements. A public hearing is a statutory right for a mine operator that has been ordered to comply with a notice of violation but would like to appeal the decision.

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

CONTACT PERSONS

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

Matthew Livers, Regulatory Specialist
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, California 95814
Phone: (916) 319-9032
Matthew.Livers@conservation.ca.gov

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

Please direct requests for copies of the proposed text (the "express terms") of this regulation, the Initial State-

ment of Reasons, the modified text of the regulation, if any, or other information upon which this rulemaking is based to Matthew Livers at the above address.

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

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

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

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

AVAILABILITY OF THE
FINAL STATEMENT OF REASONS

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

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

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

TITLE 14. STATE MINING AND
GEOLOGY BOARD

ARTICLE 11.5. FORFEITURE OF
FINANCIAL ASSURANCE

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

PROPOSED REGULATORY ACTION

The SMGB proposes to amend sections 3810–3817 of the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1, Article 11.5, pertaining to the forfeiture of financial assurance mechanisms as provided for in Public Resources Code (PRC) Section 2773.1, subdivision (b).

WRITTEN COMMENT PERIOD AND
PUBLIC HEARING

Any person, or an authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the SMGB. Comments may be submitted by email to smgb@conservation.ca.gov or by mail to:

State Mining and Geology Board
801 K Street, MS 20–15
Sacramento, CA 95814
ATTN: Financial Assurance Forfeiture

The written comment period closes on December 16, 2019. The SMGB will only consider comments received at the SMGB office by that time.

Pursuant to Government Code (GC) section 11346.8, the SMGB will hold a public hearing if it receives a written request for a public hearing from any interested person, or an authorized representative, no later than 15 days before the close of the written comment period.

AUTHORITY AND REFERENCE

The SMGB is proposing to amend sections 3810–3817 of Title 14, Division 2, Chapter 8, Subchapter 1, Article 11.5 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act of 1975 (SMARA), Public Resources Code (PRC) section 2710 et seq., specifically PRC sections 2755 and 2759 to implement, interpret, and make specific PRC section 2773.1(b).

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

On April 18, 2016, Governor Brown signed Assembly Bill (AB) 1142 (Gray) into law and thereby enacted

significant revisions to SMARA. To enact the revisions to SMARA, the SMGB must address these changes by way of regulations.

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

The Department of Conservation's (DOC), Division of Mine Reclamation (DMR) and the SMGB provide lead agency assistance and oversight. Currently, the SMGB administers certain lead agency responsibilities under SMARA for 38 individual surface mining operations by conducting inspections, reviewing and approving financial assurance cost estimates, and undertaking compliance and enforcement actions when necessary.

EXISTING LAW

PRC section 2773.1(a) provides that lead agencies must require financial assurances for each surface mining operation within its jurisdiction to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan.

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

PRC section 2773.1(b)(1) provides the lead agency, or the Board when acting as the lead agency, has evidence that an operator may be financially incapable of completing reclamation in accordance with their approved reclamation plan or the operator has abandoned the surface mining operation without completing reclamation shall hold a public hearing to address the issue. The hearing will determine whether the operator is financially capable of completing reclamation or has abandoned the mining operation. The mine operator must receive at least 30 days' notice prior to the hearing.

PRC section 2773.1(b)(2) provides the steps necessary if, following the public hearing, it is determined that the operator is financially incapable of performing

reclamation in accordance with its approved reclamation plan or has abandoned its surface mining operation without completing reclamation. The lead agency or the supervisor shall notify the operator that they intend to take appropriate action to forfeit the financial assurances and must specify the reasons for doing so. They must then take the appropriate steps to seize and then use proceeds from the forfeited financial assurance mechanisms to conduct and complete reclamation in accordance with the approved reclamation plan. The operator is responsible for all costs of completing reclamation that exceed the proceeds from the forfeited financial assurance mechanisms.

PRC section 2773.1(d) provides the lead agency or the Board acting as a lead agency primary responsibility to seek forfeiture of the financial assurance mechanisms and to reclaim the mine site pursuant to PRC 2773.1(b). The Division of Mine Reclamation has secondary authority to seek forfeiture of the financial assurance mechanisms and to reclaim the mine site pursuant to PRC 2773.1(b) if the financial incapability of the operator or the abandonment of the surface mining operation has come to the attention of the supervisor and the supervisor provides notice of intent to the lead agency to take such action.

Sections 3810–3817 of CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 11.5 govern procedures that lead agencies, including the SMGB when acting as a lead agency, must follow when seeking forfeiture of financial assurance mechanisms. The regulations detail the steps of the hearing procedures to ensure that mine operators, lead agencies, regulatory agencies and the general public, are aware of the process and are designed at a minimum to provide due process to all parties.

PROPOSED ACTION

Amend CCR sections **3810–3817, Forfeiture of Financial Assurance**

The proposed regulatory action ensures the process of forfeiting financial assurance mechanisms is clearly and plainly explained to reflect changes to statute resulting from AB 1142. The purpose of the amended regulation is to define the procedures to be followed by the lead agency or the Board acting as the lead agency pursuant to PRC Section 2773.1(b). These sections offer guidance on determining whether a surface mining operation can perform reclamation in accordance with its approved reclamation plan or has abandoned its surface mining operation without completing reclamation and should therefor forfeit its financial assurance mechanisms pursuant to PRC Section 2773.1(b).

ANTICIPATED BENEFITS OF THE PROPOSED REGULATORY ACTION

The broad objective of the proposed regulatory action is to make procedural revisions and improvements to the financial assurance forfeiture process based primarily on statutory changes to PRC section 2773.1(b) caused by AB 1142 (Gray). Furthermore, the proposed amended regulatory language is intended to ensure mine operator accountability in cases where forfeiture is necessary and provide due process prior to seizing an operator's financial assurance mechanism.

CONSISTENCY WITH FEDERAL STATUTE AND REGULATION

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

CONSISTENCY WITH EXISTING STATE REGULATIONS

The proposed regulatory action is not inconsistent or incompatible with existing regulations pertaining to forfeiture of financial assurance mechanisms for surface mining operations. After conducting a review for any regulations that would relate to or affect this area, the SMGB has concluded that Article 11.5 in Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR, contains the only regulations that concern the forfeiture of financial assurance mechanisms under SMARA.

CEQA COMPLIANCE

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The SMGB has determined that the proposed regulatory action will not have an adverse economic impact on businesses and individuals statewide, including small businesses. Surface mining operations are statutorily required to maintain financial assurance mechanisms during the life of the mining operation and that these financial assurance mechanisms may be forfeited if certain conditions within the statutory criteria arise. The proposed changes to existing regulations may affect small business, however, the proposed amendments address changes made to statutory requirements and are aimed primarily at conforming the existing regulatory hearing process to the statutory changes.

Significant effect on housing costs: None.

Business reporting requirement: The SMGB finds that this regulation does not impose reporting requirements on businesses.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

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

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

Benefits to the health and welfare of California residents, worker safety, and the state's environment: The SMGB anticipates that the proposed regulatory action will result in non-monetary benefits to public health and welfare, worker safety, and environmental safety. Operators and lead agencies are already familiar with existing processes for forfeiture of financial assurance mechanisms for surface mining operations.

Reducing the amount of time the lead agency has to seize the financial assurance mechanisms (FAM) following the hearing will avoid the expiration or lapse of the FAM, depending on the type of FAM established by the operator. The proposed regulatory action conforms existing procedural requirements with changes made to the underlying statutory procedures that were revised because of AB 1142.

CONSIDERATION OF ALTERNATIVES

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

The alternative of no action would conflict with statutory requirements set forth by AB 1142 and could result in confusion by appellants attempting to reconcile existing hearing procedures with the applicable revised statutory requirements.

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

CONTACT PERSONS

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

Matthew Livers, Regulatory Specialist
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, California 95814
Phone: (916) 319-9032
Matthew.Livers@conservation.ca.gov

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

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

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

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

TITLE 14. STATE MINING AND GEOLOGY BOARD

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

ARTICLE 5. RECLAMATION PLAN APPEALS

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

PROPOSED REGULATORY ACTION

The SMGB proposes to amend sections 3650–3659 of the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1, Article 5, pertaining to the reclamation plan appeals process as provided for in Public Resources Code (PRC) Section 2770, subdivisions (e) through (g).

WRITTEN COMMENT PERIOD AND PUBLIC HEARING

Any person, or an authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the SMGB. Comments may be submitted by email to smgb@conservation.ca.gov or by mail to:

State Mining and Geology Board
801 K Street, MS 20–15
Sacramento, California 95814

ATTN: Reclamation Plan Appeals

The written comment period closes on December 16, 2019. The SMGB will only consider comments received at the SMGB office by that time.

Pursuant to Government Code (GC) section 11346.8, the SMGB will hold a public hearing if it receives a written request for a public hearing from any interested person, or an authorized representative, no later than 15 days before the close of the written comment period.

AUTHORITY AND REFERENCE

The SMGB is proposing to amend sections 3650–3659 of Title 14, Division 2, Chapter 8, Subchapter 1, Article 5 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act of 1975 (SMARA), Public Resources Code (PRC) section 2710 et seq., specifically PRC sections 2755 and 2759 to implement, interpret, and make specific PRC section 2770(e)–(g).

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

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

The Department of Conservation’s (DOC), Division of Mine Reclamation (DMR) and the SMGB provide lead agency assistance and oversight. Currently, the SMGB administers certain lead agency responsibilities under SMARA for 38 individual surface mining operations by conducting inspections, reviewing and approving financial assurance cost estimates, and undertaking compliance and enforcement actions when necessary.

EXISTING LAW

PRC section 2733 provides that “reclamation” means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a useable condition that is readily adaptable for alternate land uses and create no danger to public health and safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, slope stabilization, or other measures.

PRC section 2770(a) provides the requirements to conduct surface mining operations within the State of California. A person shall not conduct surface mining operations unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency for the operation.

PRC section 2770(e)(1) provides an reclamation plan appeals process to the SMGB for a person who can sub-

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

PRC section 2770(f)(1) provides that the SMGB may decline to hear an appeal if it determines that the appeal raises no substantial issues related to the lead agency’s decision to deny the approval of a reclamation plan, or the timeliness in reviewing a completed application.

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

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

PRC section 2770(g)(2)(A) states that a reclamation plan determined not to meet the applicable requirements of Sections 2772, 2772.1, 2773, 2773.1, 2773.3, and 2773.4; Article 1 (commencing with Section 3500), Article 9 (commencing with Section 3700), and Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations; and the lead agency’s surface mining ordinance adopted pursuant to subdivision (a) of Section 2774 shall be returned to the operator with a notice of deficiencies.

PRC section 2770(g)(2)(B) provides that within 10 days of the hearing, the Board shall provide notice via certified mail to the lead agency, the operator, and the DMR of the Board’s determination. The notice shall include instructions to the operator to submit to the lead agency for approval a revised reclamation plan consistent with the Board’s determination.

Sections 3650–3659 of CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 5 govern procedures for appeals to the SMGB concerning denial of approval of reclamation plans under PRC 2770.

PROPOSED ACTION

Amend CCR sections 3650–3659, Reclamation Plan Appeals

The proposed regulatory action ensures the process of appealing a lead agency’s denial of a reclamation plan or plan amendment or failure to act upon receipt of a proposed reclamation plan or plan amendment of a surface mining operation within the State is clearly and plainly explained to reflect changes to statute from AB 1142 and generally provide the participants with an appropriate level of due process. These sections provide the necessary steps to determine jurisdiction, producing an administrative record, and conducting the public hearing as required in PRC 2770. The amended regulations provide a detailed explanation of the procedures and criteria for the SMGB when scheduling the hearing, noticing the hearing, the aspects of the hearing’s record, the sequence of the procedures, and the determination following receipt of any testimony. Additionally, the amended regulation makes non-substantive fixes to language. To ensure gender neutrality, pronouns are removed from the language and inclusive language is used, “Chairman” becomes “Chair” and “his or her” is removed.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATORY ACTION

The broad objective of the proposed regulatory action is to make procedural improvements and revisions to the reclamation plan appeals process based on statutory changes to PRC section 2770 caused by AB 1142. Furthermore, the proposed amended regulatory language is intended to ensure proper review of reclamation plans or plan amendments for surface mining operations and provide mine operators with a simple administrative appeals process prior to taking civil action against lead agencies. Proper review can in-turn ensure that the necessary review and approval of reclamation plans, or plan amendments is taken to consider the effects on health and safety of communities and the environment. An administrative appeals process before the SMGB ensures mine operators can seek remedial actions concerning reclamation plan denials or the inaction of a lead agency when processing an operator’s reclamation plan or plan amendment.

CONSISTENCY WITH FEDERAL STATUTE AND REGULATION

The proposed regulatory action does not duplicate or conflict with existing Federal statutes or regulations. By Memorandum of Understanding with the Federal Bureau of Land Management, the United States Forest

Service, the Department, and the SMGB, SMARA and federal law are coordinated.

CONSISTENCY WITH EXISTING STATE REGULATIONS

The proposed regulatory action is not inconsistent or incompatible with existing regulations pertaining to the appeal of denied reclamation plans or plan amendments by lead agencies, or a lead agency's failure to act upon an application for these entitlements. After conducting a review for any regulations that would relate to or affect this area, the SMGB has concluded that Article 5 in Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR, contains the only regulations that concern administrative appeals to the SMGB over actions or inactions by lead agencies.

CEQA COMPLIANCE

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

Costs impacts on a representative private person or business: None.

Statewide adverse economic impact directly affecting businesses and individuals: The SMGB has determined that the proposed regulatory action will not have an adverse economic impact on businesses and individuals statewide, **including small businesses** because the proposed action provides necessary steps to determine jurisdiction, producing an administrative record, and conducting the public hearing as required in PRC 2770 and also changes in new PRC section 2736, and caused by AB 1142.

Significant effect on housing costs: None.

Business reporting requirement: None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Creation or elimination of jobs within California:

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

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

Benefits to the health and welfare of California residents, worker safety, and the state's environment: The SMGB anticipates that the proposed regulatory action will result in non-monetary benefits to public health and welfare, and environmental safety by ensuring the public that SMARA compliant reclamation plans or plan amendments will be timely and appropriately approved or where reclamation plans or plan amendments are non-compliant with SMARA, operators and lead agencies will have sufficient instructions on what would constitute an appropriate reclamation plan or plan amendment for the particular mining operation.

CONSIDERATION OF ALTERNATIVES

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

The alternative of no action would be in direct conflict with statutory requirements set forth by AB 1142 and would result in confusing regulatory processes remaining in publication. This would further delay the appropriate approval or denial of reclamation plans or plan amendments designed to ensure an efficient entitlement approval process so that mining operations can continue to provide needed mined materials throughout California and be governed by SMARA compliant reclamation plans.

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

ments or arguments that are relevant to the proposed action.

CONTACT PERSONS

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

Matthew Livers, Regulatory Specialist
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, California 95814
Phone: (916) 319-9032
Matthew.Livers@conservation.ca.gov

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

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

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

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

regulations to the attention of Matthew Livers at the address indicated above. The SMGB will accept written comments on the modified text of the regulation for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

TITLE 23. CALIFORNIA WATER COMMISSION

The California Water Commission (Commission) will conduct a public hearing at the time and place noted below to consider the adoption of the Procedure for Water Infrastructure Improvements for the Nation Act Determination regulations. The proposed regulations would allow the California Water Commission to implement a process to determine whether a project is consistent with Proposition 1, AB 1471, Stats 2014, to obtain federal funding.

OPPORTUNITY FOR PUBLIC COMMENT

Public Hearings. The hearing will be held in accordance with the requirements set forth in Government Code section 11346.8. The hearing details are as follows:

Date: December 18, 2019

Time: 9:30 a.m.

This item may be considered at any time during the regularly scheduled meeting of the Commission. Please consult the agenda, which will be available at least ten (10) days before December 18, 2019, to confirm the time at which this item will be considered. The agenda will be posted at <http://cwc.ca.gov>.

Location:

Resources Building
First Floor Auditorium
1416 Ninth Street
Sacramento, California 95814

Sections Affected: Proposed adoption of California Code of Regulations, title 23, new article 2, which contains new sections 6100, 6101, 6102, and 6103.

**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 November 1, 2019. To be considered by the Commission, written comments not physically submitted at the hearing, must be submitted on or after November 1, 2019 and received no later than 5:00 p.m. on December 18, 2019 and must be addressed to the following:

California Water Commission
901 P Street, Room 314
P.O. Box 924836
Sacramento, CA 94236

cwc@water.ca.gov

Please note that under the California Public Records Act (Government 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.

The Commission requests, but does not require, that written and email statements on this item be filed at least 10 days prior to the hearing so that Commission staff and Commissioners have additional time to consider each comment. The Commission 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.

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

AUTHORITY AND REFERENCE

Authority Cited: 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, Water Code section 150.

Reference: 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612.

**DOCUMENTS INCORPORATED
BY REFERENCE**

No documents are incorporated by reference in the regulations.

**INFORMATIVE DIGEST OF PROPOSED
ACTION AND POLICY STATEMENT
OVERVIEW PURSUANT TO
GOVERNMENT CODE SECTION 11346.5(a)(3)**

**BACKGROUND AND EFFECT OF THE
PROPOSED RULEMAKING**

The Water Infrastructure Improvements for the Nation (WIIN) Act was enacted by Congress on December 16, 2016. The WIIN Act is codified as 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612 of the United States Code. The purposes of the WIIN Act include improving water infrastructure across the country. Section 4007 addresses water projects in California and makes funding available to build water storage projects in California.

The proposed regulations provide the process for a project proponent to obtain the California Water Commission's determination that the project is consistent with Proposition 1, which was codified as Division 26.7 of the California Water Code and approved by voters in November 2014.

**OBJECTIVES, BENEFITS, AND POLICY
STATEMENT EXPLAINING THE SPECIFIC
BENEFITS ANTICIPATED FROM THE
PROPOSED REGULATORY ACTION**

This proposed regulation will establish the procedure for proponents of water projects to obtain the Commission's determination of consistency with Proposition 1. The proposed regulations will ensure a fair and consistent process for each proponent and promote transparency by making the process the same for each and every project proponent.

**DETERMINATION OF
INCONSISTENCY AND INCOMPATIBILITY
WITH EXISTING STATE REGULATIONS
Pursuant to Government Code section
11346.5(a)(3)(D)**

The proposed regulations establish a procedure for water storage proponents to obtain a determination from the California Water Commission that a project is consistent with the requirements of Proposition 1. None of the proposed regulations are inconsistent or incompatible with existing state regulation. The Commission has developed these regulations in alignment with existing state law and regulations that govern an open and transparent process for addressing state governmental agencies.

The Commission developed the proposed regulations to be consistent with the following sections of California Code: Government Code sections 11340.5 and 11342.600 requiring any rule of general application to be adopted as a regulation.

The proposed regulations are uniquely applicable to the applicants applying for funds pursuant to the WIIN Act. In addition to the consistency of the regulatory policies with the implementing statute, the policies are also consistent with existing laws and regulations that relate to the specific policies discussed below.

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

**MANDATED BY FEDERAL
LAW OR REGULATIONS**

The proposed regulations are not mandated by federal law or regulations but are required because of duties imposed on the California Water Commission via federal law.

COMPARABLE FEDERAL REGULATIONS

The proposed regulation implements a new process for water projects to obtain the California Water Commission’s determination that the water project is consistent with Proposition 1. Although the authority to make the determination necessary is implied from federal law, these regulations do not have a federal counterpart, and do not impact, duplicate, or conflict with Federal regulations or statutes. The commission has reviewed federal regulations and standards specifically regarding the authorization to make the determination.

**SUMMARY OF EXISTING LAWS AND
REGULATIONS RELATED DIRECTLY TO THE
PROPOSED RULEMAKING**

The WIIN Act, codified at 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, charges the Commission with making a determination that California State led water storage projects applying for federal funding under the WIIN Act are consistent with Proposition 1. Specifically, the commission is directed in Section 4007(f) to make such a determination. To be consistent with California Government Code section 11340 *et seq.*, the Commission is required to adopt regulations governing the process water projects must complete to obtain the Commission’s determination.

**OTHER STATUTORY AND
LEGAL REQUIREMENTS**

California Government Code section 11340.5 states:

- (a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.

California Government Code section 11342.600 defines a regulation as:

. . . [E]very rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

Because the WIIN Act conferred a power on the California Water Commission, the Commission needs to undertake a rulemaking to ensure the process it implements is consistent with Government Code section 11340.5.

**FISCAL IMPACT DETERMINATION
REGARDING THE PROPOSED ACTION**

LOCAL MANDATE

(Government Code section 11346.5(a)(5))

Pursuant to Government Code sections 11346.5(a)(5) and (a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs to covered State agencies. The proposed regulatory actions would not create costs or savings in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, Title 2, division 4, part 7 (commencing with section 17500) or other nondiscretionary costs of savings to State or local agencies.

The regulation does not impose a mandate on any private individual, business or local government. Application to the federal government for WIIN Act funding is entirely voluntary. Participation is open to California water agencies promoting water storage projects.

The determinations of the Commission’s Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and busi-

nesses in reasonable compliance with the proposed regulatory action are presented below:

- Cost to any Local Agency or School District Requiring Reimbursement Pursuant to Government Code section 17500 *et seq.*: None.
- Cost or Savings for State Agencies: None.
- Other Non-discretionary Costs or Savings on Local Agencies: None.

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

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.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESS

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the projects that would apply for WIIN Act funding do not meet the qualifications of a small business.

BUSINESS REPORTING REQUIREMENTS

The administrative requirements of the proposed regulations do not apply to business or private individuals. Therefore, there is no reporting requirement that applies to businesses.

HOUSING COSTS

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

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

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.

BENEFITS OF THE PROPOSED REGULATION

The objective of the proposed regulations is to ensure a level playing field and a consistent process for any California water storage project proponent seeking funding through the federal WIIN Act in obtaining a determination from the Commission of whether the project is consistent with Proposition 1.

A detailed explanation of the benefits of the proposed regulation is in the Initial Statement of Reasons, under "Purpose of Proposed Regulations."

DISCLOSURES REGARDING THE PROPOSED ACTION

The proposed regulation does not award funding from WIIN Act sources. Rather, it ensures water projects from California that apply for funding from the Federal government pursuant to the WIIN Act are consistent with California's stated goals and policies related to water storage.

The following summarizes the sections of the proposed regulation and the potential categories of economic and fiscal impact:

Section 6100. Explanation of the reason to adopt the regulations.

Section 6101. General provisions and definitions.

Section 6102. Process for applicant to request the Commission's determination.

Section 6103. Explanation of staff responsibilities.

Section 6104. Process of presenting the project to the Commission.

Costs potentially resulting from these regulations are:

Costs to local agencies to prepare information, submit information, and attend the Commission meeting.

Costs to the Commission and its staff to manage the information and meet with applicants to explain the process.

The following are conclusions of an economic and fiscal impact analysis for the proposed regulations:

The proposed regulation will not result in a significant or permanent change in the number of jobs within the state.

No creation or elimination of businesses within the state would occur as a result of this proposed regulation.

The proposed regulation would not affect the competitive advantages or disadvantages of businesses within the state.

The proposed regulation would not significantly affect investment in the state.

Incentives for innovation in business products, materials, or processes would not be affected.

ALTERNATIVES STATEMENT

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

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

Commission staff has prepared an 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 "Initial Statement of Reasons."

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on the Commission's website listed below, or may be obtained from Kimberly Muljat, California Water Commission, 901 P Street, Sacramento, California, 95814, (916) 651-7501.

The following materials are available for public review:

- Text of Proposed Regulation
- Notice of Proposed Rulemaking
- Initial Statement of Reasons
- Materials Relied Upon
- Form 400
- Form 399
- Final Statement of Reasons (upon completion)
- Final Text of Regulation (upon completion)

These materials may be viewed in two ways:

- Visiting the Commission's website (<http://cwc.ca.gov>)
- Arranging an in-person review. Please contact Kimberly Muljat (contact information provided above).

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 the Commission's website (<http://cwc.ca.gov>).

AGENCY CONTACT PERSONS

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

Holly Stout
California Water Commission
901 P Street, Room 314
P.O. Box 924836
Sacramento, CA 94236
916-651-0156
cwc@water.ca.gov

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed to:

Kimberly Muljat
California Water Commission
901 P Street, Room 314
P.O. Box 924836
Sacramento, CA 94236
916-651-7501

The Commission 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.

INTERNET ACCESS

This notice, the Initial Statement of Reasons, and all subsequent regulatory documents, including the FSOR, when completed, are available on the Commission's website for this rulemaking at <https://cwc.ca.gov>.

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 (beginning with section 11340).

Following the public hearing, the Commission may adopt the regulatory text as originally proposed, or with nonsubstantial or grammatical modification. The Commission may also adopt 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; in such event, the full regulatory text, with modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified text from the Commission contact persons listed in this notice.

The hearing location 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 Commission 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.

TITLE 23. STATE WATER RESOURCES CONTROL BOARD

CHAPTER 16. UNDERGROUND TANK REGULATIONS

UNDERGROUND STORAGE TANK REPORTING REQUIREMENTS

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

PROPOSED REGULATORY ACTION

The State Water Board proposes to amend California Code of Regulations, title 23, division 3, chapter 16 (California UST Regulations). These proposed amendments include modifications to the local agency reporting requirements and modifications to the reporting requirements for UST owners and operators.

PUBLIC HEARING

A public hearing has not been scheduled for this proposed action. However, as provided in Government Code section 11346.8, any interested person, or his or

her duly authorized representative, may request a public hearing if the request is submitted in writing in the manner described below to the State Water Board no later than 15 days prior to the close of the written comment period. If a request for a public hearing is made, the State Water Board shall, to the extent practicable, provide notice of the time, date, and place of the hearing in accordance with Government Code section 11346.4 by mailing the notice to every person who has filed a request for notice with the State Water Board. In addition, as prescribed by Government Code section 11340.85, notice may be provided by means of electronic communication to those persons who have expressly indicated a willingness to receive notice by this means.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the State Water Board. The written comment period closes on December 17, 2019 at 12:00 p.m. The State Water Board only will consider comments received by that time.

Please send comment letters to Jeanine Townsend, Clerk to the Board, by email at commentletters@waterboards.ca.gov, by fax at (916) 341-5620, or by mail or hand delivery addressed to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100,
Sacramento, CA 95812-2000 (by mail)

1001 I Street, 24th Floor,
Sacramento, CA 95814 (by hand delivery)

Please also indicate in the subject line, "**Comment Letter — Proposed UST Reporting Regulations.**" Hand and special deliveries should also be addressed to Ms. Townsend at the address above. Couriers delivering comments must check in with lobby security and have them contact Ms. Townsend at (916) 341-5600. Due to the limitations of the email system, emails larger than 15 megabytes are rejected and cannot be delivered or received by the State Water Board. Therefore, the State Water Board requests that comments larger than 15 megabytes be submitted under separate emails.

To be added to the mailing list for this rulemaking and to receive notification of updates of this rulemaking, you may subscribe to the listserv for "**Program Requirements and Guidance**" by going to: http://www.waterboards.ca.gov/resources/email_subscriptions/ust_subscribe.shtml. You also may call Ms. Laura Fisher at (916) 341-5870 or email her at laura.fisher@waterboards.ca.gov. **Persons who receive this notice by mail or electronic mail are already on the mailing list.**

AUTHORITY AND REFERENCE

Health and Safety Code section 25299.3 authorizes the State Water Board to adopt regulations to implement chapter 6.7 of division 20 of the Health and Safety Code. References to specific code sections are identified in the proposed amendments to the regulations.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The State Water Board proposes to amend the requirements in California UST Regulations, section 2713 regarding the data that local agencies must provide to the State Water Board pursuant to California UST Regulations, section 2713. The UST performance measures that the State Water Board reports to the United States Environmental Protection Agency (U.S. EPA) under the federal Leaking Underground Storage Tank Trust Fund Corrective Action Cooperation Agreement for California and the State Water Board Cooperative Agreement Work Plan (U.S. EPA UST performance measures) have been amended. In addition to these U.S. EPA UST performance measures, the State Water Board must report compliance inspection data to the U.S. EPA pursuant to the Federal Energy Policy Act of 2005.

The State Water Board proposes to amend the UST performance measures that each local agency must report to the State Water Board semiannually (local agency UST performance measures) consistent with the amendments to the U.S. EPA UST performance measures. The State Water Board also proposes to add a new requirement that local agencies provide compliance inspection data through the California Environmental Reporting System (CERS) the statewide web-based system used to collect and report hazardous material related data. Finally, the State Water Board is proposing to simplify the existing local agency reporting requirement regarding red tags. These amendments to the local agency reporting of UST performance measures are necessary so that the State Water Board can provide complete and accurate reporting of all U.S. EPA UST performance measures to the U.S. EPA.

The State Water Board also proposes to amend the requirements in California UST Regulations, section 2716 to clarify UST owners and operators designated UST operator visual inspection responsibilities. These proposed amendments clarify the corrective actions that must be reported on the Designated Underground Storage Tank Operator Visual Inspection Report and the UST owner or operator signature requirement for this form. The State Water Board is proposing a corresponding modification to the signatory statement on the

Designated Underground Storage Tank Operator Visual Inspection Report (Appendix XIII).

The State Water Board proposes several additional amendments to forms contained in the appendices of the California UST Regulations. These forms were added to the California UST Regulations in 2018 for consistency in reporting and to simplify the reporting process. The State Water Board proposes to amend the Underground Storage Tank Monitoring System Certification Form (Appendix VI) and the Underground Storage Tank Secondary Containment Testing Report Form (Appendix VII) to remove the interstice test reporting requirement. There is no separate statutory or regulatory requirement to conduct this communication testing, which may be impossible or infeasible on many existing UST systems.

In addition, the State Water Board proposes to add a requirement to the Underground Storage Tank Spill Container Testing Report Form (Appendix VIII) and the Underground Storage Tank Overfill Prevention Equipment Inspection Report Form (Appendix IX) that the service technician provide the expiration date of the technician's training and certification for spill container testing and performing the overfill equipment inspection, respectively. This addition is necessary to ensure compliance with training and certification requirements and is consistent with all other forms that require service technician information in the California UST Regulations.

The State Water Board also proposes certain amendments to the forms for consistency, clarification, and updating purposes. These amendments include: 1) edits to terminology used for clarification and consistency purposes; 2) modifications intended to simplify the reporting process, such as deleting the requirement to attach the test method used and adding check boxes for construction exceptions to reduce the need to write explanatory comments; 3) removing unnecessary duplicative instructions; and 4) combining or modifying questions on the Underground Storage Tank Overfill Prevention Inspection Report Form (Appendix IX) for clarification purposes.

Finally, the State Water Board proposes certain amendments to the regulations, including the forms, that do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California UST Regulations provision (i.e., changes without regulatory effect). These amendments without regulatory effect include changes made for purposes of accessibility, syntax, cross-references, spelling, grammar, punctuation, or renumbering or relocating regulatory provisions.

The State Water Board did not rely on any technical, theoretical, or empirical studies, reports, and documents in proposing these amendments to the California

UST Regulations. The State Water Board relied on an Economic and Fiscal Impact Statement (Form 399) and an Economic Impact Analysis/Assessment prepared pursuant to Government Code section 11346.3, subdivision (b) in proposing these amendments to the California UST Regulations. The specific purpose and the basis for the State Water Board's determination of the necessity of each amendment are explained in the Initial Statement of Reasons.

ANTICIPATED BENEFITS OF THE PROPOSED ACTION

The proposed amendments will simplify, standardize, and update reporting requirements for UST owners and operators and for local agencies, which may assist in earlier identification of issues that may result in UST releases and will assist the State Water Board in maximizing the coordination, consolidation, and consistency of the regulation of USTs throughout the State. As a result, the proposed amendments may decrease the risk of soil and groundwater contamination resulting from UST releases, improving the health and welfare of California residents, worker safety, and the State's environment.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The State Water Board has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the State Water Board has concluded that these are the only regulations that require local agencies and UST owners and operators to report the affected items.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with section 17500) of the Government Code, division 4.

COST OR SAVINGS TO STATE AGENCIES

The State Water Board has determined that there are no fiscal impacts on any State agency or program because the regulations apply to local agencies and to UST owners and operators of USTs that are regulated by the

local agencies, who implement the existing California UST program on the State Water Board's behalf.

COST OR SAVINGS IMPOSED ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The State Water Board has determined that there is no cost or savings imposed on school districts as a result of the proposed regulatory action, or other nondiscretionary costs or savings imposed on local agencies or school districts. The State Water Board expects the modifications to the local agency reporting requirements to reduce the overall time that local agencies must spend reporting UST information to the State Water Board. The modifications to the reporting requirements for UST owners and operators also may benefit local agencies by reducing confusion and inconsistent reporting.

COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE OF CALIFORNIA (STATE)

The State Water Board has determined that there is no cost or savings in Federal funding to the State as a result of the proposed regulatory action.

EFFECT ON HOUSING COSTS

The State Water Board has determined that the proposed regulatory action will have no effect on housing costs.

BUSINESS IMPACT/SMALL BUSINESS

The proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Nor will the proposed regulatory action adversely affect small businesses in California because this regulatory action modifies local agency reporting requirements and reporting requirements for UST owners and operators, and amendments does not create a significant workload to create or eliminate business processes.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The State Water Board has determined that the cost for a typical UST facility in California to comply with the proposed amendments is zero.

Assessment Regarding Effect on Jobs and Businesses

The State Water Board has determined that the proposed regulatory action will not have an effect on the creation of new businesses within the State, because the removed testing requirements for existing equipment do not create a significant enough workload to support the creation of new businesses. The proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Nor will the proposed regulatory action adversely affect small businesses in California.

The proposed regulatory action will not have an effect on the creation or elimination of jobs within the State. Nor will the proposed regulatory action have an effect on the creation of new businesses, the elimination of existing businesses, or the expansion of existing doing business within the State.

Benefit of the Regulation for Public Health, Safety, and Welfare

The proposed amendments will simplify, standardize, and update reporting requirements for UST owners and operators and for local agencies, which may assist in earlier identification of issues that may result in UST releases and will assist the State Water Board in maximizing the coordination, consolidation, and consistency of the regulation of USTs throughout the State. As a result, these proposed amendments may decrease the risk of soil and groundwater contamination resulting from UST releases, improving the health and welfare of California residents, worker safety, and the State's environment.

BUSINESS REPORTING REQUIREMENT

The State Water Board finds that it is necessary for the health, safety, or welfare of the people of this state that the proposed regulation which requires a report apply to businesses. The proposed regulatory action simplifies, clarifies, and updates existing reporting requirements.

CONSIDERATION OF ALTERNATIVES

The State Water Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention: 1) would be more effective in carrying out the purpose for which the regulatory action is proposed; 2) would be as effective and less burdensome to affected private persons than the proposed regulatory action; 3) would be more cost-effective to affected private persons and equally effective

in implementing the statutory policy or other provision of law; or 4) more consistent with California's existing requirements and groundwater protection policies.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, ECONOMIC AND FISCAL IMPACT STATEMENT, AND THE RULEMAKING FILE

The State Water Board has prepared an Initial Statement of Reasons, which includes an Economic Impact Analysis/Assessment prepared pursuant to Government Code section 11346.3, subdivision (b), and Form 399 for the proposed regulatory action. The Initial Statement of Reasons includes the specific purpose for the regulation proposed for adoption and the rationale for the State Water Board's determination that adoption is reasonably necessary to carry out the purpose for which the regulation is proposed. All the information upon which the proposed regulation is based is contained in the rulemaking file. The Initial Statement of Reasons, including the Economic Impact Analysis/Assessment, the express terms of the proposed regulations, the Form 399, and the rulemaking file are available from the contact person listed below or at the website listed below.

The documents relating to this proposed regulatory action may be found on the State Water Board's website at the following address: https://www.waterboards.ca.gov/water_issues/programs/ust/adm_notices/repregs/index.html.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding any hearing that is requested and considering all timely and relevant comments received, the State Water Board may adopt the proposed amendments substantially as described in this notice. If the State Water Board 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 fifteen (15) days before the State Water Board adopts the regulation as modified. A copy of any modified regulation may be obtained by contacting Ms. Laura S. Fisher, the primary contact person identified below. The State Water Board will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

AVAILABILITY OF
FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting either of the persons listed below. A copy also may be accessed on the State Water Board website previously identified.

CONTACT PERSONS

Requests of copies of the text of the proposed regulation, the Statement of Reasons, or other information upon which the rulemaking is based, or other inquiries should be addressed to the following:

Name:

Laura S. Fisher, Chief

Address:

State Water Resources Control Board
Division of Water Quality
1001 I Street
Sacramento, CA 95814

Telephone Number:

(916) 341-5870

E-mail address:

laura.fisher@waterboards.ca.gov

The backup contact person is:

Name:

Tom Henderson

Address:

State Water Resources Control Board
Division of Water Quality
1001 I Street
Sacramento, CA 95814

Telephone Number:

(916) 319-9128

E-mail address:

tom.henderson@waterboards.ca.gov

The documents relating to this proposed action also may be found on the State Water Board's website at the following address: https://www.waterboards.ca.gov/water_issues/programs/ust/adm_notices/repregs/index.html.

GENERAL PUBLIC INTEREST

DEPARTMENT OF REAL ESTATE

**NOTICE OF HEARING BY THE REAL
ESTATE COMMISSIONER: ANNUAL FEE
REVIEW — REQUIRED BY STATUTE**

The Real Estate Commissioner proposes to consider whether the fees charged by the Department of Real Estate ("DRE") should be lower than the maximum amount allowed pursuant to California Business and Professions Code ("the Code") Sections 10209.5, 10210, 10214.5, 10215, 10250.3 and 11011. The Commissioner's consideration will include all comments, objections and recommendations regarding such fees.

PUBLIC HEARING ANNOUNCEMENT

Sections 10226 and 11011 of the Code require, among other things, that at least one regulation hearing be held each calendar year to determine if fees lower than those authorized under Section 10226.5(b) of the Code should be prescribed. The hearing referred to below shall serve as the regulation hearing for the purpose of satisfying the requirement of Sections 10226(a) and 11011(a) of the Code. DRE may present, at this hearing, relevant data compiled by the DRE, and other sources, if appropriate, that have been used or which may be used in making the determination if fees should be lower. There is no proposal to adopt, amend and/or repeal any sections of the California Code of Regulations (CCR) at this time. However, the Commissioner wishes to consider all comments, objections and recommendations regarding such fees.

DRE will hold a public hearing starting at 10:00 a.m., on December 18, 2019, at the DRE's Sacramento Office, located at 1651 Exposition Boulevard, Sacramento, California. The hearing room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant

to DRE's fee structure. The written comment period closes on December 18, 2019. All written comments must be received by 5:00 p.m. on that date at DRE's Sacramento Office as follows:

Daniel E. Kehew, Real Estate Counsel
California Department of Real Estate
P.O. Box 137007
Sacramento, CA 95813-7007
Telephone: (916) 576-7842

Backup contact person for this proposed action is Stephen Lerner at (916) 576-8100.

DRE will mail or deliver a copy of this Hearing Notice by the Commissioner to DRE's list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with DRE.
2. The Secretary of the Business, Consumer Services and Housing Agency.
3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be affected by any fee adjustment. (To restate: This announcement involves no such adjustment.) DRE has no way of knowing which licensees are small businesses.
4. The California Association of Realtors (a real estate licensee trade organization) and the California Building Industry Association (a home builders trade organization).
5. A substantial number of land developers. Not small businesses by definition, they may, nevertheless, be affected by any fee adjustment. (To restate: This announcement involves no such adjustment.)

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has

set the time and place for a Public Meeting and Business Meeting:

PUBLIC MEETING

On **December 19, 2019**, at 10:00 a.m. in the Council Chambers of the Rancho Cordova City Hall
2729 Prospect Park Drive,
Rancho Cordova, California.

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

BUSINESS MEETING

On **December 19, 2019**, at 10:00 a.m. in the Council Chambers of the Rancho Cordova City Hall
2729 Prospect Park Drive,
Rancho Cordova, California.

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

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

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

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**INITIATION OF THE DEVELOPMENT OF
PUBLIC HEALTH GOALS FOR
PERFLUOROOCCTANOIC ACID AND
PERFLUOROOCCTANE SULFONATE IN
DRINKING WATER AND REQUEST FOR
INFORMATION**

**ANNOUNCEMENT OF PUBLIC HEALTH
GOAL INITIATION WEBINAR**

The Calderon–Sher California Safe Drinking Water Act of 1996¹ requires the Office of Environmental Health Hazard Assessment (OEHHA) to post a notice on its website when initiating the development or update of public health goals (PHGs) for contaminants in drinking water. PHGs are concentrations of chemicals in drinking water that are not anticipated to produce adverse health effects. PHGs are non–regulatory in nature but are to be used as the health basis to support California’s primary drinking water standards (Maximum Contaminant Levels, or MCLs) established by the State Water Resources Control Board (SWRCB).

This public notice announces the initiation of PHG development for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) in drinking water. OEHHA is requesting information that could assist in the risk assessments of these chemicals and calculation of their PHGs.

OEHHA is hosting a webinar on November 15, 2019, from 9:00 a.m. to 12:00 p.m. (PST) to provide the public the opportunity to hear and ask questions about the toxicological and epidemiological data for evaluating the health risks of PFOA and PFOS. Information about the webinar can be found on the OEHHA website at <https://oehha.ca.gov/water>.

SWRCB adopted notification levels of 5.1 and 6.5 parts per trillion in water for PFOA and PFOS, respectively, on August 22, 2019, based on OEHHA’s health–based recommendations. The technical support document for OEHHA’s notification level recommendations can be found on OEHHA’s website at <https://oehha.ca.gov/media/downloads/water/chemicals/nl/final-pfoa-pfosnl082119.pdf>.

All information submitted to OEHHA in response to this request is considered public. Please do not submit proprietary information. In order to be considered during the PHG development process, **information must**

be received by January 15, 2020. OEHHA encourages submission of information in electronic form, rather than in paper form. Information may be submitted via the following link: <https://oehha.ca.gov/comments> or by e–mail to PHG.Program@oehha.ca.gov with the chemical name in the subject line. Information submitted in paper form may be mailed or delivered in person to the address below:

Pesticide and Environmental Toxicology Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
P.O. Box 4010, MS–12B
Sacramento, California 95812
Attention: PHG Program

If you have any questions, please contact Ms. Hermelinda Jimenez at (916) 324–7572 or email PHG.Program@oehha.ca.gov.

DISAPPROVAL DECISION

**DECISION OF DISAPPROVAL OF
REGULATORY ACTION**

Printed below is the summary of an Office of Administrative Law disapproval decision. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814–4339, (916) 323–6225 — FAX (916) 323–6826. Please request by OAL file number.

DEPARTMENT OF JUSTICE

State of California

Office of Administrative Law

**In re:
Department of Justice**

**Regulatory Action: Title 11,
California Code of Regulations
Adopt sections: 999.501, 999.502**

**DECISION OF DISAPPROVAL OF
REGULATORY ACTION**

Government Code Section 11349.3

¹ See Health and Safety Code section 116365

OAL Matter Number: 2019-0829-02
OAL Matter Type: Regular (S)

<p>SUMMARY OF REGULATORY ACTIONS</p>

SUMMARY OF REGULATORY ACTION

In this regular rulemaking, the Department of Justice (the “Department”) proposed to adopt regulations pertaining to an initial license fee and a license renewal fee for a licensed pawnbroker or secondhand dealer.

On August 29, 2019, the Department submitted the above-referenced rulemaking action to the Office of Administrative Law (“OAL”) for review. On October 11, 2019, OAL notified the Department of OAL’s decision to partially approve and partially disapprove the proposed rulemaking. OAL disapproved the Department’s proposed regulations pertaining to an initial license fee and a license renewal fee for a licensed pawnbroker or secondhand dealer.

DECISION

OAL disapproved the proposed adoption of sections 999.501 and 999.502 of Title 11 of the California Code of Regulations (the “CCR”) in the above-referenced rulemaking action for failure to comply with the “necessity” standard of the Administrative Procedure Act (the “APA”), pursuant to Government Code sections 11346.2, subdivision (b)(1), and 11349, subdivision (a), and section 10 of Title 1 of the CCR. This issue must be resolved prior to OAL’s approval of the regulations upon resubmittal. This Decision of Disapproval of Regulatory Action explains the reasons for OAL’s action.

CONCLUSION

OAL disapproved the above-referenced regulations for the foregoing reasons. Pursuant to Government Code section 11349.4, subdivision (a), the Department may resubmit revised regulations and/or rulemaking documents within 120 days of their receipt of this Decision of Disapproval. A copy of this Decision was e-mailed to the Department on the date indicated below. If you have any questions, please contact me at (916) 324-6948.

**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# 2019-0904-03
BOARD OF FORESTRY AND FIRE PROTECTION
 Safety Element Review, 2019

The Board of Forestry and Fire Protection (Board) amended a section of the Board’s Safety Element Review regulations. The amendments include a Board option for a consultation with a local jurisdiction’s board of supervisors or city council members if the local jurisdiction did not accept the Board’s recommendations to improve wildland fire risk reduction or mitigation in the jurisdiction’s adoption or amendment of its general plan safety element.

Title 14
 AMEND: 1265.03
 Filed 10/16/2019
 Effective 01/01/2020
 Agency Contact: Edith Hannigan (916) 862-0120

File# 2019-0919-04
BOARD OF OPTOMETRY
 Optometry Board — Section 100 Changes

This change without regulatory effect by the California State Board of Optometry (CSBO) repeals all existing regulations and incorporated forms regarding Sponsored Free Health Care Events because section 901 of the Business and Professions Code, which authorized the CSBO to adopt these regulations and forms, was repealed on January 1, 2018, by AB 512 (Stats. 2013, ch. 111). This change without regulatory effect also amends existing regulations regarding registered dispensing opticians to align with AB 684 (Stats. 2015, ch. 405), which transferred the program and all regulations from the Medical Board of California to the CSBO.

Title 16
AMEND: 1399.201, 1399.203, 1399.204, 1399.274
REPEAL: 1508, 1508.2, 1508.3
Filed 10/23/2019
Agency Contact: Marc Johnson (916) 575-5216

File# 2019-0906-01
CALIFORNIA ARCHITECTS BOARD
California Supplemental Examination (CSE)
Wait Time

This rulemaking action shortens the wait time, from 180 to 90 days, for architecture practice licensure candidates to retake the California Supplemental Examination after failing it. The action clarifies provisions concerning candidate requests for review by the California Architects Board of procedural errors or adverse environmental conditions allegedly experienced by a candidate during administration of the examination. The action also deletes obsolete language and makes a number of nonsubstantive changes.

Title 16
AMEND: 124, 124.5
Filed 10/18/2019
Effective 01/01/2020
Agency Contact: Timothy Rodda (916) 575-7217

File# 2019-0910-01
CALIFORNIA GAMBLING CONTROL
COMMISSION
120-Day Timeline

The California Gambling Control Commission (Commission) acts upon an application within a 120-day timeline. This amendment amends the language to reflect that denials will no longer be made during the 120-day timeline.

Title 4
AMEND: 12218.7, 122235, 12342, 12350
Filed 10/22/2019
Effective 01/01/2020
Agency Contact: Josh Rosenstein (916) 274-5823

File# 2019-0909-02
DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Supplemental Reforms to Parole Consideration

This action by the Department of Corrections and Rehabilitation (Department) adopts and amends regulations to allow inmates who are incarcerated for a term of life with the possibility of parole for nonviolent offenses to be eligible for parole consideration by the Board of Parole Hearings.

Title 15
ADOPT: 2449.30, 2449.31, 2449.32, 2449.33,
2449.34, 3495, 3496, 3497
AMEND: 2449.1, 3490, 3491
Filed 10/21/2019
Effective 10/21/2019
Agency Contact: Josh Jugum (916) 445-2266

File# 2019-0923-01
DEPARTMENT OF INSURANCE
CAARP Plan of Operations

In order to provide for more accurate premium development, this rulemaking action adopts a new supporting documentation requirement called an Inspected Units Form which producers will be required to complete when a commercial risk requires Federal Highway Administration or Federal Motor Carrier Safety Administration filings or endorsements. The new form will require the verification of certain information about commercial vehicles and will enable the calculation of more accurate premiums and coverages. Pursuant to Insurance Code section 11620(c), this action is not subject to the requirements of the Administrative Procedure Act.

Title 10
AMEND: 2498.4.9
Filed 10/17/2019
Effective 10/17/2019
Agency Contact: Michael Riordan (415) 538-4226

File# 2019-1014-01
DEPARTMENT OF JUSTICE
Revised Tobacco Escrow Agreement

This emergency rulemaking action readopts amendments to the requirements for establishing and maintaining qualified tobacco escrow accounts to ensure that Non-Participating Manufacturers (NPMs) of tobacco products and their escrow agent banks properly hold, track, and monitor tobacco escrow funds on deposit for the benefit of California.

Title 11
AMEND: 999.12
REPEAL: 999.13
Filed 10/22/2019
Effective 10/24/2019
Agency Contact: Julia Zuffelato (916) 210-6040

File# 2019-0905-01
DIVISION OF WORKERS' COMPENSATION
Workers' Compensation — Official Medical Fee
Schedule — Inpatient Hospital

This action by the Division of Workers' Compensation within the Department of Industrial Relations amends the Official Medical Fee Schedule — Inpatient

Hospital. This action was submitted to OAL for filing and printing only pursuant to Labor Code section 5307.1, subdivision (g)(2).

Title 8
AMEND: 9789.25
Filed 10/16/2019
Effective 11/01/2019
Agency Contact: Jarvia Shu (510) 286-0646

File# 2019-0911-01
DIVISION OF WORKERS' COMPENSATION
Medical Treatment Utilization Schedule (MTUS)

This file and print action by the Division of Workers' Compensation (Division) of the Department of Industrial Relations amends its regulation to adopt the newer version of the Hip and Groin Disorders Guideline, which is incorporated by reference in the regulation.

Title 8
AMEND: 9792.23.10
Filed 10/21/2019
Effective 10/07/2019
Agency Contact: John Cortes (510) 286-0519

File# 2019-0924-01
FAIR POLITICAL PRACTICES COMMISSION
Multipurpose Organization

This action updates existing rules regarding multipurpose organization political activity transparency and adds a new section establishing recordkeeping requirements for multipurpose organizations.

Title 2
ADOPT: 18422.1
AMEND: 18422
Filed 10/23/2019
Effective 11/22/2019
Agency Contact: Amanda Apostol (916) 324-3854

File# 2019-1017-05
STATE WATER RESOURCES CONTROL BOARD
Emergency Regulation Amending FY 2019-20 Water Rights Fee Schedule

This emergency regulatory action by the State Water Resources Control Board is the annual adjustment to fees assessed to persons issued waste discharge permits. These fees are adjusted each fiscal year to conform to the revenue levels set forth in the Budget Act. Pursuant to Water Code section 13260(f)(2), this action is a statutorily deemed emergency, is not subject to review by the Office of Administrative Law, and shall remain in effect until revised by the state board.

Title 23
AMEND: 2200, 2200.6, 2200.7
Filed 10/23/2019
Effective 10/23/2019
Agency Contact: Glen Osterhage (916) 341-5032

**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.