



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. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (“Commission”), under the authority vested by the Political Reform Act (“Act”)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **March 21, 2019** at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m. on March 19, 2019.**

BACKGROUND

The Franchise Tax Board performs audits mandated by Section 90001. Commission staff performs mandatory audits pursuant to Section 90006 for specified audits due to potential conflicts of interest with the Franchise Tax Board. The Act also authorizes Commission staff and the Franchise Tax Board to perform discretionary audits and investigations pursuant to Sections 90003 and 90008.

As required by Section 90007, the guidelines, standards, and scope for audits conducted by the Franchise Tax Board are enumerated in Regulations 18994–18996. However, the auditing regulations are currently devoid of explicit guidelines, standards, and scope for audits and investigations by Commission staff. Proposed Regulation 18998 is intended to remedy the omission.

Subsection (a) of Regulation 18998 addresses mandatory auditing by the Commission under Section 90006. Commission staff always applied the same standards, guidelines, and scope for conducting audits un-

der Section 90006 as the Franchise Tax Board under Section 90001. However, subsection (a) of proposed Regulation 18998 codifies Commission staff’s long-standing practice. Subdivision (b) enumerates the standards and scope for discretionary audits and investigations conducted pursuant to Sections 90003 and 90008.

The Franchise Tax Board generally performs audits pursuant to Section 90001. Regulation 18994 concerns audits and investigations conducted by the Franchise Tax Board. The proposed amendment to the regulation does not change the standards, guidelines, and scope for conducting audits by the Franchise Tax Board. The proposed amendment is merely intended to correct a typographical error.

REGULATORY ACTION

Adopt 2 Cal. Code Regs. Section 18998 and Amend 2 Cal Code Regs. Section 18994.

Proposed Regulation 18998 is intended to codify Commission staff’s auditing practice under Section 90006 to mirror the Franchise Tax Board’s auditing standards, guidelines, and scope in conducting audits under Section 90001. It is also intended to codify the standards and scope of audits and investigations conducted by Commission staff pursuant to Sections 90003 and 90008. Proposed amendment to Regulation 18994 is intended to correct a typographical error.

SCOPE

The Commission may adopt the language noticed herein or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All further statutory references are to the Government Code. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations.

REFERENCE

Section 90000 et seq., Government Code

CONTACT

Any inquiries should be made to Ryan O'Connor, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Kern Water Bank Authority
West Kern Water District
Dinuba Unified School District
Shasta — Tehama — Trinity
Joint Community
College District

A written comment period has been established commencing on February 15, 2019, and closing on April 1, 2019. Written comments should be directed to the Fair Political Practices Commission, Attention Brianne Kilbane, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government

Code Section 87302, employees who must disclose certain investments, interests in real property and income.

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than April 1, 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 Brianne Kilbane,

Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES

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

TITLE 8. DEPARTMENT OF
INDUSTRIAL RELATIONS

The Acting Director of the Department of Industrial Relations (“Director”) proposes to adopt new regulations setting forth procedures and requirements for registering as a public works contractor pursuant to Labor Code section 1725.5. These proposals include procedures for appealing a determination to deny registration or to revoke a previously-approved registration. The Director proposes to adopt these regulations as a new Article 7 (commencing with section 16410) of subchapter 3, of chapter 8, of division 1 of title 8 of the California Code of Regulations.

PUBLIC HEARING, WRITTEN
COMMENT PERIOD, AGENCY CONTACTS

Public Hearing:

A public hearing will be held on the proposals as follows:

April 2, 2019 at 10:00 a.m.
Ronald Reagan State Building
First Floor Auditorium, South Tower
300 South Spring Street
Los Angeles, California

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Director requests but does not require persons who make oral comments to submit a written copy of their testimony.

Written Comment Period:

Any person or authorized representative may submit written comments relevant to the proposed regulatory action to the contact person listed below. The written comment period closes on **April 2, 2019, at 5:00 p.m.**, and the Director will only consider comments received

by that deadline. Written comments may be submitted in person at the hearing or by letter, facsimile, or e-mail as follows:

DIR, Office of Special Counsel
1515 Clay Street, 17th Floor
Oakland, California 94612
Facsimile: (510) 622-3265
E-mail: PWCRregulations@dir.ca.gov

Agency Contacts:

Inquiries concerning the proposed regulations may be directed to:

Primary Contact:
John Cumming, Special Counsel
Office of the Director
Department of Industrial Relations
455 Golden Gate Avenue, Suite 9516
San Francisco, California 94102
(415) 486-2038

Back-up Contact:
Isaac S. Nicholson
Department of Industrial Relations
Office of the Director, Legal Unit
1515 Clay Street, Suite 701
Oakland, California 94612
(510) 286-1216

AUTHORITY AND REFERENCE

Authority: Labor Code Sections 54, 55, 1742(b), and 1773.5.

Reference: Section 1094.5, Code of Civil Procedure; and Sections 1725.5, 1742, 1771.1, 1771.3, 1771.4, and 1777.1, Labor Code.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Overview:

Chapter 1 of Part 7 of Division 1 of the Labor Code (commencing with Section 1720) regulates employment on public works projects, including the duty of contractors and subcontractors to pay their workers not less than the general prevailing wage rates as determined by the Director. California has regulated employment on public works since the 19th century and first adopted prevailing wage requirements in 1931. Since that time, the laws governing public works have been modified and refined many times to ensure proper monitoring and enforcement of prevailing wage and related requirements.

In 2014, the legislature adopted SB 854 (Stats. 2014, Chap. 28), which, among other things, established a

new requirement for contractors and subcontractors to be registered with the Department of Industrial Relations in order to qualify to bid or work on a public works project. A new Labor Code Section 1725.5 set forth the qualifications and fees for registering, and new Sections 1771.1 and 1771.4 set forth related monitoring, notice, and enforcement requirements. In 2017, the legislature adopted SB 96 (Stats. 2017, Chap. 28), which, among other things, amended these laws to increase the annual registration fee, provided a limited exception to the registration requirement for small projects, and authorized the Labor Commissioner to assess penalties against contractors and awarding bodies who use unregistered contractors or subcontractors in violation of the statutory requirements.

Upon the adoption of SB 854 in 2014, the Department of Industrial Relations established an online public works contractor registration system (located at <http://www.dir.ca.gov/Public-Works/Contractor-Registration.html>) administered by the Labor Commissioner's Office. The online system asks for basic contact and licensing information and requires the registrant to certify to meeting each of the eligibility criteria in paragraph (2) of subdivision (a) of Labor Code Section 1725.5. The system also enables the registrant to calculate and pay the required fee, including any penalty that may be due as a result of a delayed renewal or having worked on a public work without first being registered. The number of active registrations as of June 1, 2018 was over 30,000.

The purpose of these proposals is to standardize and make more specific the registration process as well as to provide specific requirements and procedures for suspending penalties or refunding fees, for denying registration or revoking a previously approved registration, and for hearing and deciding appeals from a determination to deny or revoke a registration. These proposals have been designed to be consistent with the online registration system that has been in use since July of 2014 and to afford basic due process rights to persons who are aggrieved by any determination to deny or revoke a registration.

Proposed Regulations:

The Director proposes to adopt nine new regulatory sections (16410 through 16418) covering the public works contractor registration process, registration requirements, and notice and appeal rights. Proposed section 16410 sets forth basic registration requirements. Subsection (a) sets forth the requirement to register online. Subsection (b) specifies that registration is for all or part of a fiscal year. Subsection (c) specifies that registration is required for each separately licensed business entity or name that will engage in public work. Subsection (d) specifies that the registration require-

ment applies to any person employed as an independent contractor on public work. Subsection (e) provides for each registrant to be assigned a unique registration number. Subsection (f) makes these same requirements generally applicable to registration renewals.

Proposed section 16411 addresses information required at the time of registration. Subsection (a) specifies that the registration must include the applicant's legal and business name or names, the legal and physical address, the type of business entity, and the principal owners or others with authority to act for business. Subsection (b) requires the Contractors State License Board (CSLB) license number if applicable or other applicable licensing information. Subsection (c) authorizes the Labor Commissioner to accept a registrant's certification of compliance with certain requirements in Labor Code Section 1725.5(a)(2). Subsection (d) authorizes the Labor Commissioner to request independent proof of compliance with the Section 1725.5(a)(2) criteria or to consult other records to verify compliance.

Proposed section 16412 addresses registration fees. Subsection (a) sets forth a fee schedule in accordance with the fees and penalties specified in Labor Code Section 1725.5. Subsection (b) specifies that the fees may be modified annually as provided in Labor Code Section 1771.3. Subsection (c) authorizes the Director to suspend or delay application of certain penalties for good cause. Subsection (d) specifies when the required fee is deemed received for purposes of registration. Subsection (e) gives the Labor Commissioner discretion to refund penalty assessments in individual cases under specified circumstances. Subsection (f) gives the Labor Commissioner discretion in individual cases to cancel a duplicate registration under specified circumstances and refund the fees paid for that registration.

Proposed section 16413 covers the denial of registration. Subsection (a) specifies that registrations that are incomplete or submitted without a fee shall be denied without prejudice to submitting a later application with complete information and the required fee. Subsection (b) specifies that a registration shall be denied based upon not meeting the statutory requirements or not paying the required fees, including applicable penalties. Subsection (c) provides 30 days within which to appeal either a notice of denial received at the conclusion of the online registration process or any written notice of denial provided subsequently to the applicant. Subsection (d) requires the appeal to be in writing, transmitted in accordance with section 16415, and to include information identifying the determination being appealed and the grounds for appeal. Subsection (e) requires a hearing on the appeal to be set within 30 days and authorizes the hearing to be conducted by telephone or other electronic means with the applicant's consent. Subsection

(f) authorizes the Labor Commissioner to reconsider and for good cause to rescind the denial of registration to an otherwise qualified applicant up until 48 hours before the scheduled hearing.

Proposed section 16414 covers revocation of a previously approved registration. Subsection (a) specifies three grounds for revoking registration: (1) no longer meeting the requirements of Labor Code Section 1725.5; (2) not meeting the requirements of Section 1725.5 at the time of the most recent registration or renewal or making a false certification; and (3) knowingly or negligently subcontracting with an unregistered subcontractor in violation of the registration laws in the preceding 12 months. Subsection (b) requires the Labor Commissioner to send by email or regular mail a written notice of revocation that specifies the grounds for revocation and identifies or describes the evidence that supports the determination. This subsection also requires the Labor Commissioner to send copies of the notice to the awarding body and to the contractor or subcontractor who engaged the subject contractor or subcontractor. Subsection (c) provides for revocation to become effective at the end of the tenth day following issuance of the notice, unless the notice has been appealed prior to that deadline. Subsection (d) sets forth the right to appeal the notice and requires the appeal to identify the notice being appealed and grounds for appeal. This subsection also provides 30 days in which to appeal, while further specifying that an appeal prior to the 10-day deadline in subsection (c) will stay the revocation until after the appeal is heard and decided. Subsection (d) requires an appeal hearing to be set within 30 days, with priority given to appeals filed within 10 days of the notice, and authorizes the hearing to be conducted by conference call or other electronic means with the appealing party's consent.

Proposed section 16415 covers the transmission of an appeal. Subsection (a) requires the appeal to be sent by email or first class mail to the Director's Lead Hearing Officer, with a copy sent simultaneously to the Labor Commissioner. Subsection (b) specifies the addresses to use for email transmission, and subsection (c) specifies the addresses to use when transmitting by first class mail. Subsection (d) requires the appellant or appellant's representative to include contract information and the preferred means for being reached for purposes of scheduling a hearing.

Proposed section 16416 covers the hearing and the decision on the appeal. Subsection (a) requires an impartial hearing officer to be appointed in accordance with section 17204 of the Director's Prevailing Wage Hearing Regulations (sections 17201 and following of title 8). Subsection (b) requires a hearing notice to be sent to the appellant or representative and the Labor Commissioner at least ten days prior to the hearing, and

it also authorizes the hearing officer to first schedule a telephone prehearing conference to facilitate scheduling and other procedural matters. Subsection (c) makes sections 17240, 17241(b) and (c), 17242 through 17249, and 17252 of the Director's Prevailing Wage Hearing Regulations applicable to the hearing of these appeals. Subsection (d) requires the hearing officer to issue a written decision within five days after the hearing on a revocation that has been stayed and within ten days after the hearing on any other kind of denial or revocation. This subsection also specifies that a decision upholding the denial or revocation of registration shall specify the duration of any disqualification to register. Subsection (e) specifies that the hearing officer's decision shall be the final decision of the Director and subject to appeal only by petitioning for a writ of administrative mandate in the superior court within 45 days. This subsection also specifies that the procedures in sections 17262(d) and 17263 of the Director's Prevailing Wage Hearing Regulations shall apply to such cases.

Proposed section 16417 provides that an order of debarment made by the Labor Commissioner pursuant to Labor Code Section 1777.1 shall result in an automatic denial or revocation of registration and not be subject to notice or appeal rights other than the ones specified in Section 1777.1 and the corresponding regulations in title 8 governing debarments.

Proposed section 16418 specifies that the rights, requirements, and procedures specified in this set of regulations do not apply to stop orders or penalty assessments that the Labor Commissioner may issue pursuant to Labor Code Section 1771.1.

Anticipated Benefits:

These proposals will clarify existing registration requirements and will create regularized, ascertainable, and enforceable standards for procedures currently handled on an ad hoc basis. They also provide a cheap and efficient administrative appeals process that protects the due process interests of contractors and subcontractors who are denied registration or whose previously approved registrations are revoked.

Comparable Statutes and Regulations:

Federal law requires the payment of prevailing wages and adherence to other minimum employment standards for work performed on federal public works projects through the Davis-Bacon Act, 40 U.S.C. sections 3141-3148, the Contract Work Hours and Safety Standards Act, 40 U.S.C. sections 3701-3708, and related statutes that incorporate these requirements into specific federal programs. (See 29 C.F.R. § 5.1 for a list of 60 such laws.) A majority of states have little Davis-Bacon laws, and some local entities, including the City and County of San Francisco, have their own prevailing

wage ordinances. However, these laws all have distinct requirements in terms of the types of work covered, how prevailing wages are determined, and how prevailing wage requirements are enforced.

California’s Public Works Contractor Registration program is a state-specific program that was modeled in part on similar programs that existed in the states of New Jersey and New Mexico. These proposed regulations are based on California’s statutes and comparable due process procedures governing prevailing wage enforcement appeals (at sections 17201 et seq. of title 8) that have been in use for over 15 years. These proposed regulations are not inconsistent or incompatible with any other existing state regulations (or any pending proposals of which the Director is aware).

DISCLOSURES REGARDING THE PROPOSED ACTION

The Director has made the following initial determinations with respect to these proposed regulations and invites further comment on these specific impacts.

Mandates on Local Agencies or School Districts: The proposed regulations do not impose mandates on local agencies or school districts. These proposals govern only the public works contractor registration process, including notice requirements and appeal rights of contractors who are denied registration or whose previously approved registrations are revoked.

Costs or Savings to Any State Agency: The proposed regulations will impose minor costs on the Department of Industrial Relations to implement and administer the specified notice and appeal procedures. The online registration process required by these regulations was developed in 2014 to implement the statute, and has been updated to accommodate renewals and penalties and to improve features. From the time the registration system was implemented, the Department has, on an informal basis, provided for the adjustment and refund of registration fees that were paid in error, delayed enforcement of renewal penalties, and incomplete applications, including applications with delayed fee payments, to be denied without prejudice and completed at a later time. The Department has not formally revoked any registrations, except in conjunction with debarments under a separate statute and regulatory process; and to date, registration violations have been addressed through the collection of statutory penalties assessed against contractors who want to continue to work on public works projects.

The Director anticipates that the Labor Commissioner will begin issuing revocation notices in a limited number of cases where contractors are found to be working in violation of registration requirements or to

have lied on their applications, and where other remedies (including stop orders and penalty assessments) would not address the situation. The Director assumes most notices will be served by email at no material cost, but that 25 to 50 notices per year may be prepared and served by first class mail at an average cost of \$3.00 per mailing (three notice copies at \$1.00 each). Based on experience with other licensing programs and the fact that revocation only prevents a contractor from working on public works, and only for a limited time period, the Director anticipates only 15 to 25 appeals per year, with only 5 to 10 going to full hearing and decision, and fewer than half of these requiring first class mailing. The cost of conducting hearings is estimated at 20 hours of staff time (Labor Commissioner’s office and Director’s hearing officer) at a cost of \$75 per hour, totaling \$1500 per hearing, plus material costs of \$50 for printing and mailing of notices and decisions when required. These are all absorbable costs for the Department using existing staff, including hearing officers, who already perform comparable functions for prevailing wage enforcement appeals under Labor Code Section 1742. With regard to potential court appeals from a denial or revocation of registration, the proposed regulations do not create or alter any existing rights other than setting a time limit for such appeals.

No other state agency is involved in administering the requirements of these proposed regulations, and consequently they will impose no costs on any other state agency.

Reimbursable Costs Imposed on Local Agencies or School Districts: None.

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

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

Initial Determination of Economic Impact on Business Directly Affecting Business, including Ability to Compete: The Director has made an initial determination that these proposals will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. These proposals do not alter existing statutory public works contractor registration requirements, but simply clarify those requirements and extend formal due process rights and protections to ensure that the requirements are administered fairly and consistently.

Known Cost Impacts on Representative Private Person or Business: The private sector impact of these proposals is limited to contractors and subcontractors in construction and related trades who seek to register as public works contractors, including those denied registration or whose previously approved registrations are revoked. The appeal procedures created by these pro-

posals can be utilized without material cost by receiving and sending required notices electronically and by authorizing any hearing to be conducted by conference telephone call. Assuming an aggrieved party opts for first class mail, the estimated cost is \$3.00 per mailing in an estimated 10 appeals per year, or an aggregate cost of \$30.00 per year. If a contractor or subcontractor chooses to have an in-person hearing, they would also incur travel costs to a nearby location. All other costs associated with an appeal, including attorney's fees, would be incurred in any type of challenge to a Department action, and are not added costs imposed by these proposals.

Creation, Elimination, or Expansion of Jobs or Businesses, and Benefits to Health and Welfare (Results of Assessment under Government Code Section 11346.3 (b)): The Director has made initial determinations that these proposals will not (1) affect the creation or elimination of jobs within the State of California; (2) affect the creation of new businesses or the elimination of existing businesses within the State of California; or (3) affect the expansion of businesses currently doing business within the State of California. As noted at page 5 above under "Anticipated Benefits," these proposals will benefit the public health and welfare in general and public works contractors in particular by clarifying existing registration requirements, creating regularized, ascertainable, and enforceable procedural standards, and providing a cheap and efficient administrative appeals process that protects the due process interests of contractors and subcontractors who are denied registration or whose previously-approved registrations are revoked.

Reporting Requirements (finding under Government Code Section 11346.3 (d)): None.

Effect on Housing Costs: None.

Effect on Small Business: The Director has made an initial determination that these proposals will not affect small business. Labor Code Section 1725.5 requires public works contractors, most of whom are small businesses, to register with the Department of Industrial Relations, and the statute prescribes certain criteria to qualify for registration. Contractors who fail to qualify, fail to pay statutorily prescribed fees, or whose previously approved registrations are revoked due to a violation of registration of requirements may challenge the denial or revocation. These proposals clarify registration requirements and create specific notice and appeal procedures for denials and revocations. Small businesses will incur no new or distinct burdens nor will they derive any new or distinct benefits from these proposals.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Director must determine that no reasonable alternative considered by the Director or that otherwise has been identified and brought to the Director's attention that (1) would be more effective in carrying out the purpose for which the action is proposed; (2) would be as effective as the proposed action and less burdensome to affected private persons; or (3) would be more cost-effective to affected private persons and equally effective in implementing the underlying statutes. The only alternatives of which the Director was aware when developing these proposals are (1) doing nothing, in which case notices and appeals and questions about program requirements would be handled on an ad hoc basis at likely greater costs to affected parties, or (2) adopt different and likely more formal and cumbersome procedures than those being proposed, also at greater cost to all concerned. The Director 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.

AVAILABILITY OF INFORMATION PERTAINING TO THE PROPOSED ACTION

The Director will have this Notice, the Initial Statement of Reasons, the text of the proposals, as well as the entire rulemaking file available for inspection and copying throughout the rulemaking process at the following location:

Office of the Director of Industrial Relations
Assistant to Special Counsel
1515 Clay Street, 17th Floor
Oakland, California 94612

Website:

The principal rulemaking documents, including this notice, the Initial Statement of Reasons, and the text of the proposed regulations, may also be accessed through the Department's 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 Director may adopt the proposed regulations substantially as described in this notice. If modifications are proposed that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will

be made available to the public and posted on the Department's website for at least 15 days before the regulations are adopted as revised. Requests for copies of any modified regulations may be sent to PWCRregulations@dir.ca.gov or to any of the contact persons or locations listed in this notice. Written comments on any proposed modifications will be accepted for 15 days after the date on which they are made available.

Availability of the Final Statement of Reasons and the Rulemaking File:

Upon completion, the Final Statement of Reasons will be available and the entire rulemaking file may be obtained from the Office of the Director at the address indicated above.

**TITLE 14. BOARD OF FORESTRY
AND FIRE PROTECTION**

**REGISTERED PROFESSIONAL FORESTER
AND CERTIFIED SPECIALTY
AMENDMENTS, 2019**

**Title 14 of the California
Code of Regulations (14 CCR),
Division 1.5, Chapter 10:
Article 1, 2 & 4**

**Amend: §§ 1600, 1601, 1602, 1610, 1612,
1612.1, 1612.2, 1613, 1614, 1620, 1650, 1651,
Adopt: §1611.5**

NATURE OF PROCEEDING

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board will hold a public hearing on April 10, 2019 at its scheduled meeting commencing at approximately 9:00 a.m., at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) § 11125.1(b)**, writings that are public records pursuant to **GOV § 11125.1(a)** and that are distributed to mem-

bers of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends on Monday, April 1, 2019.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

PublicComments@BOF.ca.gov

AUTHORITY AND REFERENCE
(pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14)

Note: Authority cited: Sections 759, 762, and 778.5 Public Resources Code. Reference: Sections 708, 730, 751, 752, 753, 759, 760.5, 761, 762, 763, 766, 767, 730, 772, 774, 775, 776, 777, 778.5 Public Resources Code; Section 11522, Government Code

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW
(pursuant to GOV § 11346.5(a)(3)(A)–(D))

The Professional Foresters Law (PRC § 750, et seq.) declares the existence of a public interest in the management and treatment of the forest resources and timberlands of the state. Pursuant to PRC § 759, the Board of Forestry and Fire Protection (Board) is authorized to adopt rules and regulations to effect the provisions of the article (the Professional Foresters Law), including the regulation of persons who practice the profession of forestry and whose activities have an impact upon the ecology of forested landscapes and the quality of the forest environment (PRC § 751).

PRC § 772 provides for a certified specialty where “Instead of being registered as a professional forester, an applicant may request to be registered as a certified specialist in one or more fields of forestry” where “Any public agency or professional society may submit for Board recognition its independent certification program as full qualification without examination for the Board’s certificate of specialization. That certification as a specialist shall be granted provided the board determines the program fully protects the public interest in that area of practice encompassed by the program. Those certificants are subject to Board registration and discipline with review by that specialty”.

PRC § 778 provides the scope of the Board’s disciplinary authority with respect to professional foresters and certified specialists, listing five categories under which disciplinary action may be exercised.

The proposed action was prompted by a petition for administrative rulemaking (pursuant to Government Code (GOV) § 11340.6) relating to a disciplinary case involving a Certified Rangeland Manager (CRM) specialty. Within the petition, the petitioner proposed specific language to the Board for the adoption of regulations related to professional standards and the CRM certified specialty. The Board responded by denying several requests that were unrelated to the regulations or were unclear in their content, and by scheduling a public hearing pursuant to GOV § 11340.7(a). At the public hearing, which occurred on December 5, 2017, the Board considered the petition to adopt proposed regulation changes, but chose not to make any regulatory changes at the time and referred the materials to the Professional Forester’s Examining Committee (PFEC) for further review, requesting input back to the Board on the matter. A final decision by the Board with respect to the ultimate determination of the outstanding issues in the petition is being addressed separately from this proposed action. This proposed action does not adopt the regulatory changes suggested by the petitioner.

The problem is that review of the regulations by the PFEC revealed unclear rule language and omissions in the regulatory text related to disciplinary issues and certified specialty programs under PRC § 772 that require changes or revisions to the regulations to clarify (a) how specific regulatory provisions apply to both Registered Professional Foresters (RPFs) and Certified Specialists; (b) the professional standards and responsibilities required of both RPFs and Certified Specialists, and (c) how disciplinary issues are handled by the professional society sponsoring the certified program and by the PFEC. The Board proceeded to address these issues by examining the rulemaking documents for the 1994 Certified Rangeland Manager Specialty, relevant authorizing statutes, and existing regulations related to the proposed action. The proposed action has been developed in response to these analytical efforts.

The purpose of the proposed action is to provide clarity in the regulatory provisions applicable to both RPFs and Certified Specialists. Additionally, clarity has been improved with regards to the disciplinary process and professional standards and responsibilities for RPFs, the CRM specialty and any future specialties that may be approved by the Board for a private society or public agency.

The effect of the proposed action is a comprehensive regulatory program for the licensing and administration of RPFs, CRMs, and potential additional Certified Specialists, as well as an efficiently facilitated disciplinary process for RPFs and CRMs and clearly defined roles for the professional society and the PFEC in this process.

The benefit of the proposed action is to improve the functioning of the disciplinary process for RPFs and CRMs and clearly define the organizational framework for any future certified specialty. The regulations will also benefit the promotion of fairness and equity through a clearly defined, efficient, and improved professional disciplinary process.

There are no comparable federal regulations or statutes.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action (including 14 CCR § 1600 et seq.) to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to Registered Professional Foresters and Certified Specialists and found no existing State regulations that met the same purpose as the proposed action. Based on this evaluation and effort,

the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules; it simply amends current regulatory language.

Statute to which the proposed action was compared: Article 3 (Sections 750 through 783), of Chapter 2.5, Division 1, Public Resources Code.

No documents are incorporated by reference.

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed action is not mandated by federal law or regulations.

The proposed action neither conflicts with, nor duplicates Federal regulations.

There are no comparable Federal regulations related to a licensing scheme for RPFs and Certified Specialists. No existing Federal regulations meeting the same purpose as the proposed action were identified.

OTHER STATUTORY REQUIREMENTS

(pursuant to GOV § 11346.5(a)(4))

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

LOCAL MANDATE

(pursuant to GOV § 11346.5(a)(5))

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

FISCAL IMPACT

(pursuant to GOV § 11346.5(a)(6))

There is no 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. A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings in federal funding to the State.

The proposed action will not result in costs or savings to any State agency.

HOUSING COSTS

(pursuant to GOV § 11346.5(a)(12))

The proposed action will not significantly affect housing costs.

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

(pursuant to GOV §§ 11346.3(a), 11346.5(a)(7) and 11346.5(a)(8))

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states (by making it costlier to produce goods or services in California).

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE RELIED UPON TO SUPPORT INITIAL DETERMINATION IN THE NOTICE THAT THE PROPOSED ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS (pursuant to GOV § 11346.2(b)(5) and GOV § 11346.5(a)(8))

The fiscal and economic impact analysis for these Exemption Amendments relies upon contemplation, by the Board, of the economic impact of the provisions of the proposed action through the lens of the decades of experience practicing forestry in California that the Board brings to bear on regulatory development.

STATEMENTS OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)

The results of the economic impact assessment are provided below pursuant to GOV § 11346.5(a)(10) and prepared pursuant to GOV § 11346.3(b)(1)(A)-(D). The proposed action:

- (A) will not create jobs within California;
- (A) will not eliminate jobs within California;
- (B) will not create new businesses,
- (B) will not eliminate existing businesses within California
- (C) will not affect the expansion or contraction of businesses currently doing business within California.
- (D) will yield nonmonetary benefits. For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the Informative Digest/Policy Statement Overview.

COST IMPACTS ON REPRESENTATIVE
PERSON OR BUSINESS
(pursuant to GOV § 11346.5(a)(9))

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. No adverse impacts are to be expected.

BUSINESS REPORT
(pursuant to GOV §§ 11346.5(a)(11) and 11346.3(d))

The proposed action does not impose a business reporting requirement.

SMALL BUSINESS
(defined in GOV § 11342.610)

Small business, within the meaning of GOV § 11342.610, is not expected to be affected by the proposed action.

ALTERNATIVES INFORMATION

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

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Mr. Hedge is not available is Matt Dias, Executive Officer for the Board of Forestry and Fire Protection. Mr. Dias may be contacted at the above address or by phone at (916) 653-8007.

AVAILABILITY STATEMENTS
(pursuant to GOV § 11346.5(a)(16), (18))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

FINAL STATEMENT OF REASONS

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board website at: http://bofdata.fire.ca.gov/regulations/proposed_rule_packages/.

TITLE 14. DEPARTMENT OF FISH AND WILDLIFE

NOTICE IS HEREBY GIVEN that the Department of Fish and Wildlife (Department) proposes to adopt regulations implementing the program described in Section 9002.5 of the Fish and Game Code. Section 9002.5 authorizes the Department to establish a program which incentivizes the removal of commercial Dungeness crab trap gear that remains in the ocean after the end of the fishing season, reducing entanglement risk, other threats to marine life, and navigational hazards.

The program would rely on Retrieval Permittees to ensure that retrieval operations are conducted by competent individuals, and to negotiate with Responsible Vessel Permitholders to return the trap gear upon appropriate reimbursement for costs incurred during gear retrieval operations.

After consideration of all public comments, objections, and recommendations regarding the proposed action, the Department may adopt the proposed regulations.

PUBLIC HEARING

The Department will hold a public hearing on **April 2, 2019, from 9:00 a.m. to 11:30 a.m.**, at:

State Office Justice Joseph A. Rattigan Building
Conference Room 405 (Fourth Floor)
50 D Street, Santa Rosa, California

The Conference Room is wheelchair accessible. At the public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that the persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to the Department. Comments may be submitted at the hearing, by mail, or by email. The written public comment period closes at 5:00 p.m. on April 1, 2019. The Department will only consider comments received by that time. Submit comments to:

California Department of Fish and Wildlife,
Marine Region
Attn: Morgan Ivens-Duran,
Environmental Scientist
20 Lower Ragsdale Blvd., Suite 100
Monterey, CA 93940
Email: Morgan.Ivens-Duran@wildlife.ca.gov

AUTHORITY AND REFERENCE

Section 132.2

Authority cited: Sections 8276.5 and 9002.5, Fish and Game Code.

Reference: Sections 8276.5 and 9002.5, Fish and Game Code.

Section 132.7

Authority cited: Sections 9002.5 Fish and Game Code.

Reference: Sections 8276.5, 8277 and 9002.5, Fish and Game Code.

Section 705

Authority cited: Sections 713, 1050 and 9002.5 Fish and Game Code.

Reference: Sections 713, 1050 and 9002.5, Fish and Game Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under current regulations, retrieval of commercial Dungeness crab traps associated with other vessels is only allowed under specific circumstances (Section 132.2, Title 14, CCR). Following the close of the commercial Dungeness crab season, it is unlawful for traps to remain in ocean waters (Fish and Game Code Section 8276(d)). There are currently limited incentives for eligible fishermen to retrieve such gear, and regulations do not specify a mechanism by which individuals can be reimbursed for costs incurred during the retrieval of lost or abandoned trap gear.

The proposed regulation would amend Section 132.2 to allow vessels operating under the authority of the Trap Gear Retrieval Program to retrieve Dungeness crab trap gear belonging to another Dungeness crab vessel permit.

The proposed regulation would also add Section 132.7 to Title 14, CCR to create a program under which qualified individuals can retrieve lost or abandoned commercial Dungeness crab traps, and the accompanying surface lines and buoys, and be reimbursed for costs incurred during retrieval operations. Permitting a broader range of individuals to retrieve trap gear is a necessary step to reduce the risk of whale entanglement

with trap gear and the navigational and aesthetic impacts of persistent marine debris. The following is a summary of the new regulations proposed in Section 132.7:

- Define commercial Dungeness crab traps that are left in ocean waters after the close of the season to be lost or abandoned and subject to retrieval by permitted individuals
- Define applicants for a Retrieval Permit as charitable organizations, sport or commercial fisherman associations, or a government entity in California
- Specify the form upon which interested entities will apply for a Retrieval Permit (DFW1078, New 01/23/19) and subsequently amend that permit (DFW1078a, New 01/23/19)
- Specify minimum requirements for Designated Retrievers who are authorized to conduct retrieval operations
- Specify the period during which gear retrieval operations may be conducted, and that gear located in an area where take of Dungeness crab by trap is prohibited may not be retrieved without authorization from CDFW Law Enforcement Division
- Specify a logbook form (DFW1059, New 01/23/19) upon which Designated Retrievers and Retrieval Permittees will document trap retrieval operations and whether a Responsible Vessel Permitholder has paid a Retriever Trap Fee for their retrieved gear
- Specify the Department authority to inspect vessels and facilities to ensure compliance
- Establish criteria for suspension or revocation of a Retrieval Permit
- Establish timelines for contact, title transfer, and disposition of retrieved traps
- Establish a per-trap fee the Department will pay to a Retrieval Permittee if a Responsible Vessel Permitholder does not pay the Retriever Trap Fee
- Levy a per-trap fee for all Responsible Vessel Permitholders who do not pay the Retriever Trap Fee, and allow the Department to suspend renewal or transfer of the Dungeness crab vessel permit until all owed fees are paid

Amending Section 705 will set the Lost or Abandoned Trap Gear Retrieval Permit Application, Lost or Abandoned Trap Gear Retrieval Permit Amendment, and Lost or Abandoned Department Trap Gear fees. The Application and Amendment fees are necessary to recover Department costs to process and oversee activities authorized by a Retrieval Permit. The Department Trap Fee would be paid by a Dungeness crab vessel per-

mittee to recover Department costs associated with non-payment of the Retriever Trap Fee.

The proposed regulations will encourage removal of lost or abandoned Dungeness crab trap gear and therefore reduce the risk of marine life entanglement, improve the aesthetics of coastal waters, and remove navigation hazards from ocean waters. In addition, the amount of the freely negotiated Retriever Trap Fee paid to the Retrieval Permittee is expected to be less than the market price of purchasing new traps and associated surface gear (lines and buoys). Thus, the program is also expected to benefit the Dungeness crab fishing fleet by reducing costs from replacing lost gear.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated the Department authority to implement a commercial Dungeness crab trap gear retrieval program (Section 9002.5 of the Fish and Game Code). The Department has reviewed existing regulations in Title 14 of the California Code of Regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

FORMS INCORPORATED BY REFERENCE

The following forms are incorporated by reference in the proposed regulations:

- DFW1059, Trap Gear Retrieval Logbook, New 01/23/19
- DFW1078, Lost or Abandoned Commercial Dungeness Crab Trap Gear Retrieval Permit Application, New 01/23/19
- DFW1078a, Lost or Abandoned Commercial Dungeness Crab Trap Gear Retrieval Permit Amendment, New 01/23/19

DISCLOSURES REGARDING THE PROPOSED ACTION

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

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

California Residents, Worker Safety, and the State's Environment: The proposed action is anticipated to prompt some additional job opportunities associated with the gear retrieval program at the end of the commercial Dungeness crab season until September 30. The gear retrieval program may enable the creation of some new businesses or enable the expansion of existing businesses. The proposed action is not anticipated to result in the elimination of jobs or existing businesses. The health and welfare of California residents and worker safety will not be directly impacted. The State's environment should be positively impacted by the removal of gear that could be hazardous to marine life.

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

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

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The Department would issue gear Retrieval Permits and amendments; Responsible Vessel Permits, enforce the program in the field; and reimburse Retrieval Permittees for non-payment by a Responsible Vessel Permittee. The Department will reimburse the Retrieval Permittee and assess trap fees against the non-paying Responsible Vessel Permit holder. All fees are established to recover the reasonable administrative costs of fulfilling each action. It is difficult to anticipate the resulting change in Department revenues until the program is in place for at least one year. The proposed action will not affect Federal funding to the state.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

(i) Effect on Small Business: The proposed regulations affect small businesses specifically involved in the Dungeness crab trap fishery and crab trap retrieval.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department concludes that it is (1) likely the program will create additional job opportunities and enable creation of some new, or expansion of existing, businesses engaged in gear retrieval operations; (2) unlikely to result in the elimination of commercial fishing jobs or existing businesses; and (3) likely to benefit the commercial Dungeness crab fishery through returning lost or abandoned gear at a cost lower than replacing the gear.

BENEFITS TO THE STATE'S ENVIRONMENT

The Department anticipates the cumulative effects of the changes to be positive with regard to the state's environment. The proposed regulations establish a program which will reduce the amount of lost or abandoned commercial Dungeness crab trap gear left in the water after the close of the fishing season, thereby reducing the risk of marine life entanglements.

CONSIDERATION OF ALTERNATIVES

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

MITIGATION MEASURES REQUIRED BY REGULATORY ACTION

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

CONTACT PERSONS

Inquiries concerning the proposed administrative action should be directed to:

California Department of Fish and Wildlife,
Marine Region
Attn: Morgan Ivens-Duran
Environmental Scientist
20 Lower Ragsdale Blvd., Suite 100
Monterey, CA 93940
Phone: (831) 649-2811
Email: Morgan.Ivens-Duran@wildlife.ca.gov

The backup contact person is:

California Department of Fish and Wildlife,
Marine Region
Attn: Christy Juhasz, Environmental Scientist
5355 Skylane Blvd., Suite B
Santa Rosa, CA 95403
Phone: (707) 576-2887
Email: Christy.Juhasz@wildlife.ca.gov

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, if any, or other information upon which the rulemaking is based to Morgan Ivens–Duran (see above for contact information).

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

The Department will have the entire rulemaking file available for inspection and copying at its office at the Monterey address above. As of the date this notice is published, the rulemaking file consists of:

- Notice of Proposed Rulemaking
- Proposed Regulatory Text
- Initial Statement of Reasons
- Economic and Fiscal Impact Assessment (STD. Form 399)

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

The rulemaking file is available online at: <https://www.wildlife.ca.gov/Notices/Regulations>.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received by the Department, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Morgan Ivens–Duran (see above for further contact information). The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Morgan Ivens–Duran (see above for further contact information).

**TITLE 19. OFFICE OF THE STATE
FIRE MARSHAL**

ADOPTION OF REGULATIONS —
REQUIREMENTS FOR PIPELINES
NEAR ENVIRONMENTALLY AND
ECOLOGICALLY SENSITIVE AREAS

**TITLE 19. PUBLIC SAFETY
DIVISION 1. STATE FIRE MARSHAL
CHAPTER 14. HAZARDOUS LIQUID
PIPELINE SAFETY**

**ARTICLE 7. REQUIREMENTS FOR
PIPELINE NEAR ENVIRONMENTALLY AND
ECOLOGICALLY SENSITIVE AREAS**

NOTICE IS HEREBY GIVEN pursuant to Government Code, section 11346.6 that the California Department of Forestry and Fire Protection — Office of the State Fire Marshal (“OSFM”) proposes to adopt and add regulations implementing Title 19, Division 1, Chapter 14, Article 7 of the California Code of Regulations, the Requirements For New Or Replacement Pipeline Near Environmentally and Ecologically Sensitive Areas In The Coastal Zone (EESA Regulations), to reflect recently enacted statutory requirements. This action consists of the adoption of a new article and sections of the California Code of Regulations as described below.

The text of the proposed adoptions, the initial statement of reasons and related rulemaking documents are available on the Office of the State Fire Marshal’s website at: http://osfm.fire.ca.gov/codedevelopment/codedevelopment_title19development.

STATUTORY AUTHORITY

The Elder California Pipeline Safety Act, California Government Code sections 51010 et seq., delegates exclusive authority to the OSFM to regulate intrastate hazardous liquid pipelines and to implement the State’s responsibilities under the federal Hazardous Liquid Pipeline Safety Act, Title 49 of the United States Code sections 60101 et seq. Included in the broader federal authorities, the OSFM may adopt additional or more stringent safety standards applicable to intrastate pipelines pursuant to 49 USC 60101, 60104, and 60105. Re-

cently enacted California Government Code section 51013.1 directs the OSFM to adopt regulations for the use of best available technology on new, replacement, and existing intrastate hazardous liquid pipelines. To adopt regulations as directed by the legislature, the OSFM exercised authority pursuant to sections 51013.1, 51010 (exclusive authority to regulate hazardous liquid intrastate pipelines), 51011 (adopt regulations consistent with federal law), 51013.5 (testing and inspections on new, existing, relocated, or replaced pipelines), 51015 (production of pipeline operator records, procedures, accident reporting, design, construction, testing, or operation and maintenance; right to enter, inspect and examine records and properties of pipeline operators), 51015.1 (annual inspection of pipelines and operators), 51016 (valve spacing study for new, existing, or replacement pipelines to limit spillage into metropolitan and environmentally sensitive areas), 51017 (pipeline information needed for emergency response and program purposes), 51018.6 (civil penalties), and 51018.8 (compliance orders).

PROPOSED ACTION

The proposed action will adopt a new article and regulations to reflect legislative requirements found in section 51013.1.

Add: Article 7 to Title 19, Division 1, Chapter 14 of the California Code of Regulations entitled “Requirements For New Or Replacement Pipeline Near Environmentally and Ecologically Sensitive Areas In The Coastal Zone.”

Add: Sections 2100–2120

PUBLIC HEARINGS

Public hearings will be held in Sacramento, Orange County, and Santa Barbara in accordance with the requirements set forth in Government Code section 11346.8. At the hearings, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The OSFM 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. The hearing details are as follows:

Orange County/Huntington Beach/Los Angeles

Date: February 22, 2019
 Time: 1:30–4:30
 Location: 2000 Main Street
 City Council Chambers
 Huntington Beach, CA 92648

Santa Barbara

Date: March 1, 2019
 Time: 1:30–4:30
 Location: 105 E. Anapamu St.
 Board Meeting Room 4th Floor
 Santa Barbara, CA 93101

Sacramento

Date: April 2, 2019
 Time: 1:30–4:30
 Location: Natural Resources Agency
 Auditorium
 1416 Ninth Street, First Floor
 Sacramento, CA 95814

WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed adoptions in this action to the Office of the State Fire Marshal. Comments will be accepted for 45 days beginning February 15, 2019 and **ending April 2, 2019**. The written comment period **closes at 5:00 p.m. (Pacific Time (“PT”) on April 2, 2019**. All written comments received by that time will be considered and responded to as part of the compilation of the rulemaking file. Electronic submission of comments is preferred; however, written comments may also be delivered or mailed. Written comments should be addressed as follows:

- Email: diane.arend@fire.ca.gov; (include in the subject line of the email “**Comments — Pipeline Safety–New Technologies, T19, Division 1**”), or
- Mail to:

**CAL FIRE/OFFICE OF THE
 STATE FIRE MARSHAL
 P.O. Box 944246
 Sacramento, CA 94244–2460
 Attn: Diane Arend, Code
 Development & Analysis**

Hand delivery to:

**CAL FIRE/OFFICE OF THE
 STATE FIRE MARSHAL
 2251 Harvard Street, 4th Floor
 Sacramento, CA 95815
 Attn: Diane Arend, Code
 Development & Analysis
 8:00 a.m to 5:00 p.m**

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

Pursuant to Government Code section 11346.9, the OSFM shall respond to comments submitted during the comment period containing objections and/or recommendations specifically directed at the OSFM’s proposed action or to the procedures followed by the agency in proposing or adopting the action.

AUTHORITY AND REFERENCE

These regulations are submitted to the OSFM’s authority under California Government Code Sections 51010, 51011, 51013.1, 51013.5, 51015, 51015.1, 51016, 51017, 51018.6, and 51018.8, and authority found in Title 49 of the United States Code Sections 49 USC 60101, 60104, and 60105.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action implements, interprets, clarifies and/or makes specific section 51013.1 of the Government Code.

The Elder California Pipeline Safety Act (Government Code §51010, et seq.) requires pipeline operators to comply with minimum federal standards and additional more stringent State standards to ensure the safe operation of intrastate hazardous liquid pipelines.

Summary of Existing Laws:

Government Code section 51013.1 was enacted in response to an interstate hazardous liquid spill resulting from a pipeline near Refugio Beach in Santa Barbara County. Oil from that release entered the Pacific Ocean and caused extensive environmental damage. At that time, the pipeline was not subject to OSFM jurisdiction but highlighted the importance of protecting California’s vital natural resources. Section 51013.1 imposed more stringent standards on intrastate pipelines and directed the OSFM to adopt regulations that would require new, replacement, and existing intrastate pipelines to install or retrofit pipelines near environmentally and ecologically sensitive areas in the coastal zone to use best available technology. Similar to existing regulatory authority, the OSFM must review information and data submitted by operators to make a compliance determination with the proposed regulations.

Summary of Proposed Regulations:

The OSFM is proposing to add California Code of Regulations, Title 19, Division 1, Chapter 14, Article 7. The proposed regulations build on the minimum PHMSA requirements. The more stringent safety standards that California is proposing are designed to address the environmental protection needs of California’s uniquely situated resources. To achieve this goal,

the proposed regulations will require pipeline operators to: identify pipelines subject to the proposed regulations, submit risk analysis evaluating spill volumes and dispersion that could impact environmentally and ecologically sensitive areas, propose use of best available technology to reduce spill volumes, and are subject to review and approval by the OSFM. Operators must implement retrofit to existing pipelines with best available technology in a specified time frame. Following implementation, operators are required to review and update risk analyses on a set schedule in the future to ensure that technologies on the pipeline continue to limit the consequences of a release and take account for migration, movement, and discovery of important natural resources. The effect the proposed regulations will have is continued protection of environmentally and ecologically sensitive areas now and in the future.

Summary of Effect:

In drafting the proposed regulations, the Office of the State Fire Marshal recognized the significant legislative policy objective of protecting environmentally and ecologically sensitive areas. Because the proposed regulations are intended to identify requirements that combine pipeline operations with environmental protection, the OSFM invited stakeholders, including operators, non-governmental organizations, and State and local agencies to identify provisions that would assist in achieving compliance under the new law. Many of the provisions in the proposed regulations were suggested by those stakeholders. In inviting stakeholder input the OSFM specifically solicited comments directed at development of regulatory language that will protect environmentally and ecologically sensitive areas, consider economic impacts to the regulated community, and remain consistent with the Elder Pipeline Safety Act and other adopted State policies.

Objective and Anticipated Benefits of the Proposed Regulations:

The primary objective of the proposed regulations is to protect environmentally and ecologically sensitive areas and state waters and wildlife. Government Code section 51013.1 achieves this objective by reducing the volume of hazardous liquid released in the event of a spill using best available technology.

The proposed regulations identified for adoption during this rulemaking process include approximately twenty (20) new sections. Those sections are intended to reduce the amount of oil released in an oil spill to more effectively protect environmentally and ecologically sensitive areas and state waters and wildlife when compared to existing law. There is no guarantee another spill will not occur. However, the proposed regulations should reduce the consequences of a release and corresponding negative environmental and economic im-

pacts if a spill occurs. Anticipated benefits include, continued access to coastal activities following a spill, fewer injury or death of species and habitat in California's coastal areas, reduced response costs on State, Federal, and local agencies freeing up resources for other beneficial purposes, lesser impacts on ocean fisheries, stability to energy infrastructure, and the avoidance of potential costs to responsible parties, among others.

Comparable Federal Regulations or Statute:

The proposed action does not duplicate or conflict with any federal regulations or statutes.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The OSFM has evaluated the proposed regulations and found that they are not inconsistent or incompatible with existing State and federal regulations. The OSFM regulates the safety of intrastate hazardous liquid pipelines through certification from the United States Department of Transportation — Pipeline and Hazardous Materials Safety Administration (PHMSA), as required by the Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. sections 60101 et seq. and associated regulations found in 49 C.F.R. 195 et seq. The PHMSA certification requires the OSFM to conduct various inspections on each intrastate hazardous liquid pipeline operator and their pipelines at varying time intervals. In broad terms, the PHMSA requirements contained in Federal statute and regulations set the minimum regulatory requirements on hazardous liquid pipeline operators. These minimum standards include evaluating valve placement, testing, operational procedures, and identifying areas that are more sensitive to the consequences of spills. Any state, including California, that maintains a certification from PHMSA may impose additional more stringent safety requirements on hazardous liquid pipeline operators pursuant to 49 U.S.C. 60104.

Forms and Documents Incorporated by Reference:

The following documents or forms are incorporated by reference for this rulemaking:

1. Form PSD-103: Notice of Intrastate Hazardous Liquid Pipeline Construction (July 1, 2017)
2. American Petroleum Institute Recommended Practice 1130, "Computational Pipeline Monitoring for Liquids" (First Edition, September 2007, Reaffirmed April 2012).
3. American Petroleum Institute Recommended Practice 1175, "Pipeline Leak Detection — Program Management" (First Edition, December 2015).

OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO
THE AGENCY OR ANY
SPECIFIC REGULATION OR
CLASS OF REGULATIONS

There are no other matters prescribed by statute applicable to the OSFM, or to any specific regulation. There are no other matters to identify.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The OSFM has made the following initial determinations concerning the adoption of the proposed EESA Regulations:

Mandates on Local Agencies and School Districts

The OSFM has initially determined that the adoption of the proposed EESA Regulations will not impose a mandate on local agencies or school districts requiring reimbursement pursuant to Government Code section 17500 et seq. because the OSFM is implementing legislation based on State and federal laws affecting pipeline operators, not local agencies or school districts. Local agencies may incur costs secondarily when pipeline operators undertake actions to comply with the proposed EESA Regulations through permitting related activities. Those permitting costs are recovered by local agencies through fees paid by pipeline operators. Such secondary costs are not the result of a new program or higher level of service within the meaning of Article XIII.B, Section 6 of the California Constitution.

Costs or Savings to Local Agencies and School Districts, State Agencies, or Federal Funding to the State of California

The development and implementation of the proposed EESA Regulations (along with other newly enacted statutory requirements) was anticipated to result in increased inspections and number of inspectors needed, research related to best available technologies, automatic shutoff systems, leak detection technology, and review of risk assessments. The OSFM estimated an increased cost of \$1.137 million related to these new obligations for fiscal year (FY) 2016-2017. An increase in on-going costs associated with these obligations was estimated at an additional \$755,000 for FY 2017-2018, \$707,000 for FY 2018-2019, \$652,000 for FY 2019-2020, and \$594,000 for FY 2020-2021. All the above costs were covered through an approved budget change proposal submitted to the Legislature in April of 2016.

The OSFM's Pipeline Safety Division is partially funded by federal grant funding administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA) within the United States Department of Transportation. Over the past 10 years, federal grant funding has covered 50 percent of the Pipeline Safety Division's qualified expenditures. The OSFM has maintained communications with PHMSA regarding the expanding role of the Pipeline Safety Division and its staff and does not anticipate a change in the percentage of grant funding allocated in the future.

Pursuant to Government Code sections 51019 and 51019.05 the OSFM has regulatory authority to adjust fees assessed on pipeline operators in the State to cover costs associated with administering its regulatory duties. The OSFM monitors these costs and will initiate rulemaking to cover increased costs as needed going forward.

No reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code are estimated to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

It is anticipated that some indirect cost impacts to other State agencies may occur following implementation of the regulations, though no requirements are directly imposed on other State agencies. If pipeline operators utilize resources within other agencies to seek compliance with the proposed regulations, there will be an indirect cost impact. However, any indirect costs imposed on a State agency, if any, are too small to quantify.

Significant Effect on Housing Costs

The OSFM has determined that the proposed regulation will not have a significant effect on housing costs.

Significant Statewide Adverse Economic Impacts on Business

The OSFM has initially determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The factual basis for this conclusion is that the proposed regulations interpret and make specific existing statutory requirements. The proposed regulations will likely result in some economic impact to pipeline operators to conduct studies and potentially install best available technologies. However, these impacts are offset by the numerous benefits of reduced spill volumes that should ultimately result in cost savings to pipeline operators and substantial benefit to the health, safety, and environment unique to California. Because the extent of costs incurred and costs saved will depend on the individual pipeline designs and oper-

ational needs, it is not possible to quantify the effects on each pipeline operator without reviewing a pipeline risk analysis. The pipeline risk analyses are required from pipeline operators after regulatory adoption, and the OSFM does not possess the necessary information at this time to project pipeline specific cost impacts but estimates indicate that any impact will not be significant. Additional information is contained in the Standardized Regulatory Impact Assessment.

DECLARATION OF EVIDENCE

The OSFM has not relied on any other facts, evidence, documents, testimony or other evidence to make its initial determination of no statewide adverse economic impact.

STATEMENT OF THE RESULTS OF THE STANDARDIZED REGULATORY IMPACT ASSESSMENT

The OSFM determined that the proposed regulations are major regulations requiring a Standardized Regulatory Impact Assessment (SRIA). Quantitative and qualitative analysis of the economic impact of the proposed regulations presented various challenges that necessitated assumptions at times to complete the assessment. The SRIA anticipates the proposed regulations will incur additional direct costs on pipeline operators, however those costs are expected to be offset by benefits to industry, the public, and California's natural resources. These impacts are thoroughly analyzed in the SRIA. The Department of Finance reviewed and commented on the SRIA. A summary of those comments and the OSFM's response can be found below and are included in the Initial Statement of Reasons.

Statement of the results of the SRIA

The primary quantitative cost attributed to the regulated community is estimated to be approximately \$220 million spread across the first three years of implementation with only nominal costs incurred thereafter. This estimate is inclusive and likely represents an overestimation of actual direct costs that operators could incur on Risk Analyses, leak detection systems, automatic shutoff systems, automated valves, remote controlled block valves, construction labor, permitting, testing, and training. Despite the direct costs that operators could incur, the impact on the roughly \$2.6 trillion Gross State Product is expected to be negligible. A more thorough discussion of SRIA results is provided below.

Creation or elimination of jobs within California

The proposed regulations will have an impact on the creation of jobs in California and are estimated to create

1885 industry related jobs over the first three years of implementation. Generally speaking, the oil industry is expected to see an initial increase in overall employment in year one with approximately 271 jobs created, and larger increases in the subsequent two years. The increase in employment is largely related to increased consultant positions related to risk analyses and construction industries positions necessary to implement and retrofit pipeline projects installing best available technologies.

Creation of new businesses or elimination of existing business within California

It is anticipated that the proposed regulations will not significantly impact the creation or elimination of businesses in California. Hazardous liquid pipeline construction and retrofit requires personnel to meet regulatory qualifications that could act as a barrier to entry for a new business. Likewise, labor, hardware, and software required to meet compliance requirements in the proposed regulations is typically highly specialized and requires extensive training. However, due to the anticipated increase in demand for qualified personnel it is likely that some new businesses will enter the industry to support pipeline operators in achieving regulatory compliance.

Those businesses that are currently operating in California and employ the specialized personnel required may experience growth in overall business. This is tempered by the fact that some members of industry indicated that where resources are scarce, operators may turn to qualified individuals from out of State to install required Best Available Technology (BAT). Bringing business from out of State may not necessarily have a negative impact and could be beneficial because it creates more competition delivering economic efficiencies.

The competitive advantages or disadvantages for business currently doing business within California

It is unlikely that the proposed regulations will act as a disadvantage to industry in California because the intrastate hazardous liquid pipeline industry is captive. If an outside business wishes to enter the California market, it must comply with the regulatory requirements, placing industry on even footing.

The proposed regulations may act as an advantage for California industry if pipeline operators own interstate pipelines or operate intrastate pipelines in other states throughout the Country. Although it is only preliminary, PHMSA is in the process of drafting regulations that may ultimately be similar to the regulations proposed here. It is possible that the proposed PHMSA regulations will require similar evaluation and retrofit of

pipelines that could impact HCAs for interstate pipelines. The PHMSA regulations could also address requirements on intrastate pipelines outside of California. California industry and operators would be uniquely situated to understand and competitively implement the more protective PHMSA requirements when compared to industry outside of California because of their prior regulatory experience. This prior experience could place businesses in California at a competitive advantage in the national pipeline transportation market.

The increase or decrease of investment in California

Pipeline operators typically maintain a consistent review, testing, and evaluation of existing hardware and systems installed on pipelines. Upgrades to hardware and systems are common place. These actions lead to continued investment in fixed assets and personnel, regardless of the proposed regulations, that operators build into annual budgets. The proposed regulations anticipate a minimal increase in the overall growth of investment with initial expenses by operators on hardware, equipment, and labor that will meet best available technology requirements following regulatory adoption. The increase in investment will have a nominal impact on California's \$2.6 trillion annual economy with no indication that the proposed regulations will negatively affect investment in California. Pipeline operators have stated that they are already planning for additional investment in California to meet potential regulatory requirements.

The incentives for innovation in products, materials, or processes

The proposed regulation is guided by one of the primary purposes of AB 864, using BAT to achieve spill volume reduction. BAT is broadly defined as technology that provides the greatest degree of protection by limiting the quantity of release in the event of a spill, taking into consideration whether the processes are currently in use and could be purchased anywhere in the world. The universe of possible applications of BAT is broad as no single pipeline is the same and no single technology may be BAT for all applications. This flexibility affords operators and industry the opportunity to innovate and demonstrate combinations of technologies that will best achieve spill volume reduction. It is anticipated that operators will meet the BAT requirements through improving, modifying, supplementing, adapting, or retrofitting existing products, materials, and processes. The flexibility in achieving compliance will act as a driver of innovation at implementation and going forward because the proposed regulations require operators to review installed and retrofit BAT every five years.

The benefits of the regulations, including but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

The possible benefits derived from the proposed regulations can broadly be described as costs avoided resulting in a benefit conferred. The potential benefits, both direct and indirect, are variable and pipeline specific but on whole California and its residents will realize benefits from reduced spill frequency and volumes. There is no guarantee that future spills will not occur. However, the proposed regulations seek to reduce spill frequency and volumes that should correspond to benefits to the environment, public safety, tourism, coastal businesses, pipeline industry, fisheries, energy supply, and local and State government, among others. Some of the potential benefits are described in more detail below:

- *Increased protection of state waters and wildlife.* The proposed regulations are similar to existing federal regulatory requirements designed to protect environmentally sensitive areas. However, the proposed regulations include additional environmental protections by using California's more expansive definition of environmentally and ecologically sensitive areas. Using the more expansive definition of environmentally and ecologically sensitive areas where pipelines must consider BAT and environmental impacts from a potential release should result in more pipelines installing spill detection and spill limiting technologies, thereby reducing the harmful effects of a spill and increasing protection of state waters and wildlife.
- *Mitigation against future releases.* Following adoption and implementation of the proposed regulations, pipeline operators and the OSFM will continue to review pipeline information to ensure BAT is installed on pipelines. The on-going review will allow the proposed regulations to seamlessly incorporate new technologies and reassess installed technologies to determine if they still represent BAT. This process should result in a regulatory program that is constantly striving towards mitigating future spill frequency and size by incorporating constantly evolving BAT.
- *Increased public safety.* Spills from hazardous liquid pipelines can impact nearby communities and in some cases, may necessitate evacuation due to potential risk and health impacts. Reducing the size and frequency of spills will reduce the likelihood and severity of the public being exposed to unsafe conditions.

- *Reduction in lost recreational activities.* California's coastal areas are host to parks, beaches, campgrounds, and numerous recreational attractions that draw residents from all over the State to enjoy the natural resources that make California so unique. Residents cannot enjoy these resources when they are closed because of a hazardous liquid pipeline release. The proposed regulations should lead to fewer releases and lesser impacts in the event of a release, which will allow residents more time to enjoy recreational activities.
- *Continuity of revenue to individuals, businesses, and State and local governments.* California's coastal areas draw residents and non-residents to enjoy its natural beauty. When people visit these areas they bring significant economic benefits to the community through State park fees, food, hotels, and other tourism-related industries. These industries suffer lost revenue when coastal areas are closed following a hazardous liquid pipeline release. In some instances, the economic impacts of a release can lead to lost State and local government revenue from oil production and transportation, lost jobs, and corporate bankruptcy. The proposed regulations seek to reduce releases and the resultant harm, which should lead to fewer revenue interruptions for industry and the coastal economy.
- *Increased reliability in energy infrastructure.* Hazardous liquid pipelines play a significant role in distributing energy supplies to facilities for refinement and end users. When a pipeline suffers a significant failure the subsequent regulatory and investigatory functions may lead to the pipeline being taken out of service for a protracted period of time to ensure its safety before resuming operations. This disruption can lead to challenges in the supply chain and lead to a less reliable energy infrastructure. Fewer pipeline failures and smaller releases should lead to increased reliability in the hazardous liquid pipeline infrastructure.

Summary of Department of Finance's comments on the SRIA and Response

The Department of Finance (DOF) provided comments on the SRIA in a letter dated December 27, 2018. The DOF noted that it generally concurs with the methodology used to estimate impacts of the proposed regulations, but suggested two areas for further discussion.

1. *DOF Comment: The regulatory impact on smaller operators should be considered, as they may be less able to absorb the costs associated with*

completing the risk assessment and associated upgrades. Some of the smaller operators may choose to go out of business, which may have implications for the state's interconnected system of pipelines.

Department Response: The Office of the State Fire Marshal (OSFM) OSFM attempted to assess the regulatory impact on all pipeline operators, including smaller pipeline operators, in conducting the SRIA by directly soliciting data from all operators in the State. No meaningful assessment of impact on operators, regardless of size, could be drawn from the limited response received. Additional attempts to gather economic impact data were made during multiple public workshops but they were equally unsuccessful in obtaining any information related to economic impacts to small operators. The OSFM independently conducted additional research and obtained alternative sources of economic information. Based on that information and analysis within the SRIA it was determined that no alternative approach identified would lessen the economic impact, if any, on small businesses and operators and still allow for effective implementation of the legislation and proposed regulations.

Impacts and costs associated with the completing of risk assessment and associated upgrades is anticipated to be distributed similarly across small and other sized operators consistent with the determinations found in the SRIA. Depending on how costs are distributed, some operators may incur higher or lower costs based on unique pipeline factors. Data indicates that operators can anticipate a cost increase in the range of 1.6% to 8.8% for a three-year period following regulatory implementation with costs returning to pre-regulatory adoption in the following years. It is entirely possible that operators need not make any upgrades to their pipeline system when the regulations are implemented resulting in no cost impacts for upgrades. In the event a small operator is faced with increased costs they can absorb those costs through rate adjustments in the same manner as all operators, by petitioning the Public Utilities Commission. Operators can apply for a rate increase related to delivering product through a pipeline every year of approximately 10% with larger increases allowed based on a more thorough demonstration of a needed increase in rates. Regulatory compliance costs are considered a basis for a rate increase. Additionally, cost impacts on operators will largely be related to material,

hardware, plants, and facilities infrastructure that can be depreciated over time further reducing cost impacts.

Discussions with members of industry throughout the regulatory development process indicate that none of the operators, regardless of size, intend to exit the industry due to regulatory compliance requirements proposed in the regulations. However, in the unlikely instance that a small operator chose to exit the industry, the OSFM does not anticipate any negative implications for the State's interconnected system of pipelines. This is because the extensive network of pipelines in California would likely allow for other pipelines to deliver product. Alternatively, if an operator recognizes a pipeline as being so important that it may have negative implications for the State's interconnected system of pipelines if it were non-operational, that operator would likely make necessary improvements and seek rate increases to cover costs because of its market power.

2. *DOF Comment: Remote sensing and control technology may open up new vulnerabilities in pipelines from malicious hackers. Infrastructure sabotage has been identified as a serious risk, and risk mitigation plans should take cybersecurity into account.*

Department Response: The DOF's concern that remote sensing and control technology may open up new vulnerabilities from malicious hackers, infrastructure sabotage, and cybersecurity is shared by the regulated community, OSFM, and the Nation. This shared concern, however, is likely outside the scope of the proposed regulations and the legislation authorizing regulatory development. The focus of the proposed regulations and legislation is on risk analysis and general pipeline safety, not risk mitigation from malicious hackers. Even so, the risk mitigation concerns of DOF and the associated economic impacts are covered in the SRIA.

Risk analyses are focused on addressing known pipeline operations and potential spill volume reductions in response to a pipeline failure through implementing best available technologies (BAT). BAT costs and impacts are captured in the SRIA. Operators are required to submit risk analyses considering BAT applications to reduce spill volume that includes but is not limited to remote operated equipment. Robustness of BAT is one of the factors considered when evaluating whether a particular piece of equipment or system is actually BAT, which could include cybersecurity. Remote operated equipment of any kind, including BAT,

incorporates some level of security ranging from encryption to physical operation but is dependent upon individual design. A piece of remotely operated equipment that did not account for cybersecurity may not meet the BAT requirement. The impacts and costs associated with remote operated equipment are discussed at length in the SRIA; therefore, any costs associated with risk mitigation, as posed by the DOF, are already built into the analysis.

EFFECT ON CALIFORNIA BUSINESS ENTERPRISES AND INDIVIDUALS

The OSFM assessed the potential for the proposed regulations to adversely affect California business enterprises and individuals, including whether it will affect the creation, elimination or expansion of businesses, as required by Government Code section 11346.3. As discussed above, the proposed regulations are expected to have an impact on job creation including employment in construction and retrofit, testing, consulting, and vendors of materials and equipment necessary to meet regulatory standards.

The conservative assumptions that were used in the SRIA likely overestimated direct costs, at \$220 million, and economic impact to output, at \$307 million. These costs would be spread across California’s 40 pipeline operators relative to the number of pipelines that are captured by the proposed regulations. Not all operators will incur costs and it is possible that some will incur no cost at all. Because the extent of direct costs imposed, and benefit derived, is dependent upon individual pipeline design and location, it is not possible to quantify the exact impact of the proposed regulations. Additional information can be found in the Standardized Regulatory Impact Analysis (SRIA).

COST IMPACTS ON A REPRESENTATIVE PERSON OR BUSINESS

The OSFM is not aware of any direct cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action. The proposed regulations will impose some direct costs on operators as discussed above.

SMALL BUSINESS DETERMINATION

California Government Code section 11342.610 excludes “a petroleum producer, a natural gas producer, a refiner, or a pipeline” from evaluation consideration as a small business. However, the OSFM attempted to assess small business impacts and reasonable alternatives

that would lessen any adverse impact on small business. A survey was circulated to all pipeline operators in the State requesting data that would have assisted in evaluating reasonable alternatives and impacts to all businesses, including small businesses. The OSFM also contacted additional sources, conducted independent research, and utilized internal data to assess reasonable alternatives and impacts. It was ultimately determined that no reasonable alternative would be equally effective and less burdensome than the proposed regulations. Additionally, the proposed regulations will further the statutory mandates and goals of the legislation while still allowing the OSFM to effectively regulate the hazardous liquid pipeline industry.

BUSINESS REPORT

The proposed regulation mandates new reporting and recordkeeping requirements. For reporting, pipeline operators generate risk analysis and plans that must be submitted to the OSFM as required by the authorizing legislation. Record keeping and record retention schedules are also mandated that specify the types of records and the length of time records must be maintained on pipelines governed by the proposed regulations. The record retention schedules are related to documents operators currently maintain or will generate as part of the proposed regulations. The new reporting requirements are mandated by the authorizing legislation directing the adoption of regulations, while the recordkeeping requirements are an extension of the reporting requirements. Records must be maintained to verify statutory compliance and support conclusions reached in risk analyses and plans submitted by pipeline operators. The reports and recordkeeping requirements imposed on pipeline operators are necessary for the health, safety, and welfare of the people of the State.

CONSIDERATION OF ALTERNATIVES

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

The OSFM considered reasonable alternatives to the proposed action and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as

effective as, and less burdensome to affected private persons and small businesses than the proposed action. This conclusion is based on the OSFM's determination that the proposed action is necessary to implement recent legislative enactments expanding the OSFM's regulatory authority over intrastate hazardous liquid pipelines.

During pre-rulemaking public workshops and stakeholder meetings the OSFM solicited comment on the proposed regulations, possible economic impacts, and alternative approaches to achieve the statutory mandate. The OSFM considered the following alternatives based on comments received during those public workshops.

Alternative 1: Require Only Automatic Shutoff Valves

One suggested alternative proposed was mandating only a specific type of equipment, Automatic Shutoff Valves, be used by operators to achieve best available technology requirements. This requirement would have been mandatory under the proposed alternative and was ultimately rejected because the complex nature of hazardous liquid pipelines does not lend itself well to a single technology addressing the many issues encountered in pipeline operations. Prescribed technology, upon evaluation, would not meet the flexible needs of uniquely designed and complicated pipeline systems that by their design require different configuration and technology needs. Additionally, future developments in technology could render Automatic Shutoff Valves obsolete and outside the scope of BAT resulting in the axiomatic situation of operators installing technology that did not qualify as best available technology, absent a regulatory or statutory change. Also, the need for a risk analysis, a key requirement of the enabling legislation to assist in identifying BAT, provide much needed background on pipeline operation, information on projected spill reduction, and protection of environmentally and ecologically sensitive areas, would likely be rendered superfluous.

Alternative 2: Require All Pipelines Use Real Time Transient Monitoring

A second alternative was adapted from a suggestion proffered during one of the workshops, again requiring prescribed technology, in the form of one specific leak detection system across all pipelines in California. This alternative was seen as beyond the scope of the enabling legislation, which emphasized the coastal zone connection to environmentally and ecologically sensitive areas. Although this alternative was rejected as too broad,

a narrowed down version of the alternative was considered. The alternative evaluated considered the requirement that all pipelines located near the coastal zone be equipped with Real Time Transient Monitoring leak detection systems. Similar to Alternative 1 considered above, this approach would have eviscerated the need for each pipeline to conduct a risk analysis and consider appropriate leak detection systems as best available technology on a pipeline specific basis. Additionally, this requirement assumes that real time transient monitoring is best available technology for all pipelines. Even if this were the case, future developments in technology could render Real Time Transient Monitoring obsolete and outside the scope of BAT resulting in the axiomatic situation of operators installing technology that did not qualify as best available technology, absent a regulatory or statutory change. The need for a flexible approach and solution to unique pipeline designs, including leak detection systems, is paramount to the application of best available technology.

Ultimately both Alternative 1 and Alternative 2 were rejected because prescribed technology may not be the best available technology for all pipeline configurations, now or in the future. Reviewing data, conducting risk analyses, and reaching determinations on what best available technology is in an applied setting demands flexibility in meeting the proposed regulation requirements and the legislation. Currently no other regulatory program is in place to ensure pipeline operators use best available technologies on intrastate pipelines that could impact environmentally and ecologically sensitive areas in the coastal zone. Furthermore, the alternative of no regulatory action would not be in the best interest of the public because the health and safety benefits conferred through the legislation cannot be achieved absent regulatory action. Similarly, the reduction in spill volume and resultant harm to the environment, coastal resources, and coastal businesses is less likely to be achieved if no regulatory action is taken.

CONTACT PERSONS

Inquiries regarding the proposed rulemaking action may be directed to:

Diane Arend, Regulations Coordinator
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diane.arend@fire.ca.gov
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For substantive or technical questions:

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

The OSFM will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above Sacramento Harvard Street address. As of the date of this notice being published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and supporting information, including prior drafts of the proposed regulatory text. Copies may be obtained by contacting Diane Arend with the OSFM at the addresses and/or phone numbers listed. The two standards incorporated by reference (API 1130 and API 1175) are copyrighted but are available for review at our Sacramento Harvard Street or Lakewood Offices.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

Following the hearings and consideration of all timely and relevant comments received, the OSFM may adopt the proposed regulations substantially as described in this notice. If the OSFM 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 OSFM adopts the regulations as revised. Requests for copies of any modified regulations should be directed to Diane Arend at the address listed above following publication of the modified text. If the OSFM modifies the originally proposed text, the OSFM will accept written comments on the modified regulations for 15 days after the date on which the modifications 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 Diane Arend at the above address and telephone number or by accessing the website listed below.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of this Notice of the Proposed Rulemaking (“NOPR”), the initial statement of reasons (“ISOR”), the text of the proposed regulations (“ET”) and any other materials or documents concerning this rulemaking can be accessed through the following web address: http://osfm.fire.ca.gov/codedevelopment/codedevelopment_title19development.

PLAIN ENGLISH DETERMINATION AND
AVAILABILITY OF TEXT

The proposed EESA Regulations were prepared pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code sections 11342.580 and 11346.2(a)(1). The proposed regulations were written to be easily understood by the parties that will use them.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

PROPOSED RESEARCH ON FULLY
PROTECTED SPECIES
Monitoring Golden Eagle and
Bald Eagle Nest Sites

The Department of Fish and Wildlife (Department) received a study proposal from Mandi McElroy, on behalf of AECOM–Environmental Services, requesting authorization to take Golden Eagle (*Aquila chrysaetos*) and Bald Eagle (*Haliaeetus leucocephalus*), both Fully Protected birds, for scientific research purposes, consistent with conservation and recovery of the species. The Bald Eagle is listed as Endangered under the California Endangered Species Act.

Ms. McElroy is planning to conduct studies throughout the range of the two eagle species in California, in accordance with standardized methods approved by the Department and the U.S. Fish and Wildlife Service

(Service). The research activities include passive ground surveys and aerial helicopter surveys to locate nests to determine nest occupancy, success and productivity. No adverse effects on individuals or populations are expected. Salvage activities may also be authorized for scientific purposes.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would authorize qualified professional wildlife researchers, with Ms. McElroy as the Principal Investigator, to carry out the proposed activities.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected bird species after a 30-day notice period has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after March 16, 2019, for an initial and renewable term of up to, but not to exceed three years. Contact: Carie Battistone, Carie.Battistone@wildlife.ca.gov, 916-445-3615.

**SUSPENSION OF
ACTION REGARDING
UNDERGROUND REGULATIONS**

OFFICE OF ADMINISTRATIVE LAW

**SUSPENSION OF ACTION REGARDING
UNDERGROUND REGULATIONS**

**(Pursuant to Title 1, section 280, of the
California Code of Regulations)**

BOARD OF REGISTERED NURSING

On October 8, 2018, the Office of Administrative Law (OAL) received a petition from the California Association of Private Postsecondary Schools challenging enrollment restrictions issued by the Board of Registered Nursing (Board) as an alleged underground regulation.

On January 29, 2019, the Board certified to OAL that the following guidelines and criteria:

- Curriculum Revision Guidelines (EDP-R-09) (REV 08/16); and

- Criteria & Guidelines for Self-Study (EDP-R-03) (REV 08/16 APPROVED) had been rescinded and that they would not issue, use, enforce or attempt to enforce them. Therefore, pursuant to Title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

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

File# 2019-0122-03

BOARD OF EDUCATION

CA Assessment of Student Performance & Progress

This emergency rulemaking action by the Board of Education amends regulations that govern the California Assessment of Student Performance and Progress (CAASPP) examination to align state standards with standardized testing guidelines of the Smarter Balanced Assessment Consortium.

Title 5

AMEND: 850, 854.1, 854.2, 854.3, 854.4, 859, 862, 863

Filed 01/31/2019

Effective 01/31/2019

Agency Contact: Hillary Wirick (916) 319-0860

File# 2018-1214-01

BOARD OF PHARMACY

Compounded Drug Preparations

This timely certificate of compliance action by the Board of Pharmacy makes permanent emergency regulations regarding beyond use dates for compounded drug preparations. In addition, this action amends definitions and standards related to compounding equipment and facilities.

Title 16

AMEND: 1735.1, 1735.2, 1735.6, 1751.1, 1751.4

Filed 01/30/2019

Effective 01/30/2019

Agency Contact: Lori Martinez (916) 574-7917

File# 2018-1217-02
 CALIFORNIA ARCHITECTS BOARD
 Expired License

This change without regulatory effect filing by the California Architects Board repeals sections 2624 and 2624.1 in title 16 of the California Code of Regulations to align with recent changes to the Business and Professions Code.

Title 16
 REPEAL: 2624, 2624.1
 Filed 01/31/2019
 Agency Contact: Kourtney Nation (916) 575-7237

File# 2019-0108-01
 CALIFORNIA COMPLETE COUNT —
 CENSUS 2020
 Conflict-of-Interest Code

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

Title 2
 ADOPT: 59840
 Filed 01/31/2019
 Effective 03/02/2019
 Agency Contact: Kristine Beckley (916) 612-6590

File# 2018-1220-02
 COMMISSION ON PEACE OFFICER STANDARDS
 AND TRAINING
 Academy Instructor Certificate Program

This action amends Academy Instructor Certificate Program requirements to extend the period within which instructors must obtain certification.

Title 11
 AMEND: 1009
 Filed 02/04/2019
 Effective 04/01/2019
 Agency Contact: Cheryl Smith (916) 227-0544

File# 2018-1221-02
 COMMISSION ON PEACE OFFICER STANDARDS
 AND TRAINING
 1008 — Basic Waiver and Requalification Requirement

In this action without regulatory effect, the Commission on Peace Officer Standards and Training amends one section to repeal the sunset date for jail deputy exemptions pursuant to amendments to Penal Code section 832.3 (Assembly Bill 1888, Stats. 2018, ch. 17) and updates lettering and numbering.

Title 11
 AMEND: 1008
 Filed 02/06/2019
 Agency Contact: Julia Gonwood (916) 227-3915

File# 2019-0104-02
 DENTAL BOARD OF CALIFORNIA
 Sponsored Free Health Care Events

Business and Professions Code section 901, which was repealed by its own terms operative January 1, 2018, created an exemption from the licensure and regulation requirements for a health care practitioner licensed or in good standing in another state or states who offers or provides health care services for which he or she is licensed or certified through a sponsored event. As changes without regulatory effect, in response to the repeal of Business and Professions Code section 901, the Dental Board of California is repealing regulations pertaining to sponsored events.

Title 16
 REPEAL: 1023.15, 1023.16, 1023.17, 1023.18, 1023.19
 Filed 02/05/2019
 Agency Contact: Michael Chen (916) 263-2511

File# 2018-1221-04
 DEPARTMENT OF CONSERVATION
 Updated Underground Injection Control

This action by the Department of Conservation, Division of Oil, Gas, and Geothermal Resource (Division) updates Underground Injection Control regulation and is intended to modernize, clarify, and augment the regulatory standards applicable to underground injection operations associated with oil and gas development in California.

Title 14
 ADOPT: 1720.1, 1724.5, 1724.7.1, 1724.7.2, 1724.8, 1724.10.1, 1724.10.2, 1724.10.3, 1724.10.4, 1724.11, 1724.12, 1724.13
 AMEND: 1724.6, 1724.7, 1724.10, 1748,
 REPEAL: 1724.8, 1748.2, 1748.3
 Filed 02/06/2019
 Effective 04/01/2019
 Agency Contact: Justin Turner (916) 322-6733

File# 2018-1221-08
 DEPARTMENT OF FOOD AND AGRICULTURE
 Enforcement Fees

This action by the Department of Food and Agriculture increases annual enforcement fees for renderers, collection centers, and transporters of inedible kitchen grease. This action is exempt from the Administrative Procedure Act pursuant to Food and Agricultural Code sections 19227 and 19315.

Title 3
AMEND: 1180.3.1
Filed 02/04/2019
Effective 01/01/2019
Agency Contact: Andrew Halbert (916) 900-5372

File# 2018-1220-01
DEPARTMENT OF PESTICIDE REGULATION
Toxic Air Contaminants — Chlorpyrifos
This action adds chlorpyrifos to the list of toxic air contaminants (TACs) in section 6860 of title 3 of the California Code of Regulations.

Title 3
AMEND: 6860
Filed 01/30/2019
Effective 04/01/2019
Agency Contact:
Linda Irokawa-Otani (916) 445-3991

File# 2018-1221-05
DEPARTMENT OF SOCIAL SERVICES
Subsidized Employment, Approved Career Pathways and Post-Aid Services
The Department of Social Services in this timely certificate of compliance is making permanent amendments to several sections in the Manual of Policies and Procedures. These amendments remove guidance for the repealed AB 98 Subsidized Employment program. These regulations also provide guidance on eligibility for the Expanded Subsidized Employment program to former recipients who have reached the 48-month time limit and are receiving Safety Net benefits for their eligible children. Guidance is also provided regarding the deeming of hours for participation in Approved Career Pathways and finally job retention and post-aid guidance is amended due to the repeal of AB 98.

Title MPP
AMEND: 41-440, 42-711, 42-716, 42-717, 44-207
Filed 02/06/2019
Effective 02/06/2019
Agency Contact: Everardo Vaca (916) 657-2363

File# 2018-1226-04
DEPARTMENT OF STATE HOSPITALS
Patient Electronic Property
The Department of State Hospitals submitted this timely certificate of compliance to make permanent regulations that address the possession, viewing, and distribution of illicit materials by removing digital memory storage, other means of memory storage, specified digital media players, and digital media burners from the personal possession of patients. Additionally,

commercially produced CDs and DVDs and video game systems without access to the internet will be permitted, but those that are not commercially produced and video game systems with access to the internet will be prohibited. Finally, the amendments allow hospitals to provide digital media on a supervised basis.

Title 9
AMEND: 4350
Filed 02/05/2019
Effective 02/05/2019
Agency Contact: Trini Balcazar (916) 562-2824

File# 2018-1221-11
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
Life Rings and Personal Flotation Devices
This regular rulemaking by the Occupational Safety and Health Standards Board requires that marine terminal operations have (1) at least one life ring kept in a readily accessible place where employees' work exposes them to the hazard of drowning and (2) that each employee so exposed also wear a personal flotation device. Lastly, this rulemaking requires that, in general, where employees' work exposes them to the hazard of drowning, the life ring be readily accessible.

Title 8
AMEND: 3389
Filed 02/06/2019
Effective 04/01/2019
Agency Contact: Lara Paskins (916) 274-5721

File# 2018-1227-01
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
Proposition 65 Proposed NSRL Bromodichloroacetic Acid
The Office of Environmental Health Hazard Assessment proposed this action to add exposure to bromodichloroacetic acid at a level of 0.95 micrograms per day to a regulation that establishes specific regulatory levels for chemicals that pose no significant risk.

Title 27
AMEND: 25705
Filed 02/05/2019
Effective 04/01/2019
Agency Contact: Monet Vela (916) 323-2517

File# 2018-1227-02
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
Prop 65 Proposed NSRL Bromochloroacetic Acid
The Office of Environmental Health Hazard Assessment proposed this action to add exposure to bromochloroacetic acid at a level of 0.70 micrograms per

day to a regulation that establishes specific regulatory levels for chemicals that pose no significant risk.

Title 27
 AMEND: 25705
 Filed 02/05/2019
 Effective 04/01/2019
 Agency Contact: Monet Vela (916) 323-2517

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN September 5, 2018 TO
 February 6, 2019**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

01/31/19 ADOPT: 59840
 01/24/19 AMEND: 1859.194, 1859.196
 01/22/19 AMEND: 1859.51(e)
 01/14/19 AMEND: 18756
 01/07/19 AMEND: 60802, 60803, 60807, 60808, 60824, 60825, 60827, 60831, 60832, 60833, 60835, 60840, 60842, 60843, 60844, 60845, 60846, 60847, 60848, 60849, 60850, 60851, 60852, 60853, 60854, 60855, 60856, 60858, 60860, 60861, 60863, 61120
 12/18/18 AMEND: 1859.76
 12/14/18 ADOPT: 1860, 1860.1, 1860.2, 1860.3, 1860.4, 1860.5, 1860.6, 1860.7, 1860.8, 1860.9, 1860.10, 1860.10.1, 1860.10.2, 1860.10.3, 1860.11, 1860.12, 1860.13, 1860.14, 1860.15, 1860.16, 1860.17, 1860.18, 1860.19, 1860.20, 1860.21
 12/12/18 AMEND: 2970
 12/12/18 AMEND: 18545, 18700, 18730, 18940.2
 12/05/18 REPEAL: 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445
 12/04/18 AMEND: 1897
 11/29/18 ADOPT: 1896.83, 1896.85 AMEND: 1896.60, 1896.61, 1896.62, 1896.70, 1896.71, 1896.72, 1896.73, 1896.74, 1896.75, 1896.76, 1896.77, 1896.78, 1896.81, 1896.82, 1896.84, 1896.88,

1896.90, 1896.91, 1896.92, 1896.95, 1896.96, 1896.97
 11/27/18 AMEND: 1897
 11/08/18 ADOPT: 1896.13 AMEND: 1896.4, 1896.12, 1896.17
 10/29/18 AMEND: 1896.99.100, 1896.99.120
 10/22/18 ADOPT: 18215.4
 10/11/18 AMEND: 1859.51(e)
 09/27/18 AMEND: 43000, 43001, 43002, 43003, 43004, 43005, 43006, 43007, 43008, 43009
 09/26/18 AMEND: 1859.2, 1859.51(j), 1859.70, 1859.82, 1859.93.1
 09/26/18 AMEND: 59760
 09/24/18 AMEND: 18700.2
 09/20/18 AMEND: 559.885
 09/20/18 ADOPT: 211.2 AMEND: 211
 09/13/18 ADOPT: 21902, 21903.6 AMEND: 21902 (renumbered to 21901), 21903, 21904, 21905, 21905.5
 09/11/18 AMEND: 1859.77.3

Title 3

02/04/19 AMEND: 1180.3.1
 01/30/19 AMEND: 6860
 01/17/19 REPEAL: 1305.00, 1305.01, 1305.02, 1305.03, 1305.04, 1305.06, 1305.07, 1305.08, 1305.09, 1305.10, 1305.11, 1305.12
 01/16/19 ADOPT: 8000, 8100, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8200, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8210, 8211, 8212, 8213, 8214, 8215, 8216, 8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8400, 8401, 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8500, 8501, 8600, 8601, 8602, 8603, 8604, 8605, 8606, 8607, 8608, 8609
 01/07/19 AMEND: 3439
 12/18/18 ADOPT: 4921
 11/29/18 AMEND: 3899
 11/06/18 AMEND: 3435(b)
 10/08/18 AMEND: 3591.12
 10/02/18 AMEND: 3591.12
 09/13/18 AMEND: 6502
 09/12/18 AMEND: 3591.13
 09/12/18 AMEND: 3591.12
 09/06/18 AMEND: 3601

Title 4

01/22/19 AMEND: 1374, 1374.3
 01/16/19 ADOPT: 7213, 7214, 7215, 7216, 7218, 7219, 7220, 7221, 7222, 7223, 7224, 7225, 7227, 7228, 7229

01/16/19 AMEND: 5000, 5033, 5060, 5100, 5170, 5260, 5350, 5450, 5500, 5540, 5600 REPEAL: 5361, 5362, 5363, 5380, 5560, 5570, 5571, 5572, 5573, 5580, 5590

01/02/19 AMEND: 12200, 12201, 12220, 12221

12/17/18 ADOPT: 10092.1, 10092.2, 10092.3, 10092.4, 10092.5, 10092.6, 10092.7, 10092.8, 10092.9, 10092.10, 10092.11, 10092.12, 10092.13, 10092.14

12/12/18 ADOPT: 10200, 10200.1, 10200.2, 10200.3, 10200.4, 10200.5, 10200.6, 10200.7

11/26/18 ADOPT: 7313, 7314, 7315, 7316, 7317, 7318, 7319, 7319.1, 7320, 7321, 7322, 7323, 7324, 7325, 7325.1, 7326, 7327, 7328, 7329

11/26/18 ADOPT: 7413, 7414, 7415, 7416, 7417, 7418, 7419, 7420, 7421, 7422, 7423, 7424, 7425, 7426, 7427, 7428, 7429

11/20/18 AMEND: 1632

11/20/18 AMEND: 1843.3

11/20/18 AMEND: 8078.3, 8078.15

11/19/18 ADOPT: 7213, 7214, 7215, 7216, 7218, 7219, 7220, 7221, 7222, 7223, 7224, 7225, 7227, 7228, 7229

11/02/18 AMEND: 8078.8, 8078.10

10/31/18 AMEND: 7051, 7054, 7055, 7056, 7063, 7071

10/18/18 AMEND: 1843.2

10/18/18 AMEND: 10170.2, 10170.3, 10170.4, 10170.5, 10170.6, 10170.7, 10170.8, 10170.9, 10170.10, 10170.14

09/26/18 AMEND: 12205.1

09/21/18 ADOPT: 5700, 5710, 5711, 5720, 5721, 5722, 5730, 5731 AMEND: 5000, 5020, 5033, 5035, 5037, 5054, 5060, 5100, 5101, 5102, 5120, 5144, 5170, 5191, 5212, 5230, 5240, 5250, 5540 REPEAL: 5259

09/18/18 AMEND: 7051, 7054, 7055, 7056, 7063, 7071

09/17/18 AMEND: 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7, 10091.8, 10091.9, 10091.10, 10091.11, 10091.12, 10091.13, 10091.14, 10091.15

Title 5

01/31/19 AMEND: 850, 854.1, 854.2, 854.3, 854.4, 859, 862, 863

12/31/18 AMEND: 11517.6, 11518, 11518.15, 11518.20, 11518.25, 11518.30, 11518.35, 11518.40, 11518.45, 11518.50, 11518.70, 11518.75, 11519.5

12/05/18 AMEND: 19810

10/22/18 ADOPT: 20236 AMEND: 20101, 20105, 20107, 20116, 20118, 20122, 20123, 20124, 20125, 20127, 20130, 20134, 20135, 20136, 20140, 20180, 20185, 20190, 20203, 20205, 20235 REPEAL: 20119, 20158, 20125, 20216, 20217, 20251, 20251, 20255, 20251, 20260, 20265

10/17/18 AMEND: 18600

Title 8

02/06/19 AMEND: 3389

01/07/19 AMEND: 11140

01/03/19 AMEND: 336

12/26/18 AMEND: 9789.19

11/26/18 AMEND: 9789.25

11/15/18 AMEND: 344, 344.1, 344.2

11/06/18 ADOPT: 9789.19.1 AMEND: 9789.12.1, 9789.12.2, 9789.12.6, 9789.12.8, 9789.12.12, 9789.12.13, 9789.13.2, 9789.16.1, 9789.16.7, 9789.18.1, 9789.18.2, 9789.18.3, 9789.18.11, 9789.19

11/01/18 AMEND: 14300.35, 14300.41

10/30/18 ADOPT: 9792.24.5 AMEND: 9792.22

10/10/18 AMEND: 344.18

10/08/18 ADOPT: 13850, 13851, 13853, 13855, 13856, 13857, 13858, 13859, 13860, 13861, 13862, 13863, 13864, 13865, 13866, 13867, 13868, 13870, 13871, 13872, 13873, 13874

Title 9

02/05/19 AMEND: 4350

01/15/19 ADOPT: 4011, 4012, 4013, 4014, 4014.1, 4015

10/04/18 AMEND: 4350

Title 10

01/14/19 AMEND: 2318.6, 2353.1, 2354

01/14/19 AMEND: 2318.6

12/31/18 AMEND: 2632.5, 2632.11

12/26/18 ADOPT: 2238.10, 2238.11, 2238.12

11/29/18 ADOPT: 2509.80, 2509.81, 2509.82

11/27/18 AMEND: 3704

11/20/18 AMEND: 8000, 8030

11/19/18 ADOPT: 10000, 10001, 10002, 10003, 10004, 10005, 10006, 10007

09/25/18 AMEND: 2498.4.9

09/25/18 AMEND: 2498.5

09/25/18 AMEND: 2498.6

09/24/18 ADOPT: 6408, 6410, 6450, 6452, 6454, 6470, 6472, 6474, 6476, 6478, 6480, 6482, 6484, 6486, 6490, 6492, 6494, 6496, 6498, 6500, 6502, 6504, 6506,

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	6508, 6510, 6600, 6602, 6604, 6606, 6608, 6610, 6612, 6614, 6616, 6618, 6620, 6622	09/24/18	ADOPT: 2461.1 AMEND: 2450, 2451, 2452, 2453, 2455, 2456, 2458, 2459, 2460, 2461, 2462, 2464, 93116.1, 93116.2, 93116.3, 93116.4
09/17/18	ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6536, 6538		
Title 11		Title 13, 17	
02/06/19	AMEND: 1008	01/04/19	ADOPT: title 17: 95483.2, 95483.3, 95486.1, 95486.2, 95488, 95488.1, 95488.2, 95488.3, 95488.4, 95488.5, 95488.6, 95488.7, 95488.8, 95488.9, 95488.10, 95490, 95491.1, 95500, 95501, 95502, 95503 AMEND: title 13: 2293.6; title 17: 95481, 95482, 95483, 95483.1, 95484, 95485, 95486, 95487, 95489, 95491, 95492, 95493, 95494, 95495 REPEAL: title 17: 95483.2, 95488, 95496
02/04/19	AMEND: 1009		
01/25/19	AMEND: 999.12 REPEAL: 999.13		
01/08/19	ADOPT: 5460		
12/31/18	AMEND: 2084, 2086, 2088, 2089, 2090, 2092, 2095, 2107		
12/28/18	AMEND: 5505, 5507, 5509, 5510, 5511, 5513, 5514, 5516, 5517		
10/24/18	AMEND: 1953, 1955		
09/26/18	AMEND: 44.2		
Title 12		Title 14	
01/08/19	ADOPT: 182.02, 182.03 AMEND: 182.01, 182.02 (renumbered to 182.04)	02/06/19	ADOPT: 1720.1, 1724.5, 1724.7.1, 1724.7.2, 1724.8, 1724.10.1, 1724.10.2, 1724.10.3, 1724.10.4, 1724.11, 1724.12, 1724.13 AMEND: 1724.6, 1724.7, 1724.10, 1748, REPEAL: 1724.8, 1748.2, 1748.3
01/03/19	AMEND: 553.70		
11/07/18	AMEND: 505.2	01/02/19	AMEND: 27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.55, 52.10, 150.16
09/27/18	AMEND: 500 (renumbered to 501), 501 (renumbered to 505), 501.1 (renumbered to 501.3), 501.2 (renumbered to 505.2), 501.3 (renumbered to 505.1), 501.4 (renumbered to 505.11), 502 (renumbered to 505.3), 502.1 (renumbered to 505.6), 502.2 (renumbered to 505.12), 502.3 (renumbered to 505.4), 503 (renumbered to 501.2), 503.1 (renumbered to 505.7), 504 (renumbered to 505.8), 504.1 (renumbered to 505.9), 505 (renumbered to 510.1), 506 (renumbered to 500), 507 (renumbered to 510.9), 508 (renumbered to 510.10), 509 (renumbered to 520.2)	12/28/18	ADOPT: 15064.3, 15234 AMEND: 15004, 15051, 15061, 15062, 15063, 15064, 15064.4, 15064.7, 15072, 15075, 15082, 15086, 15087, 15088, 15094, 15107, 15124, 15125, 15126.2, 15126.4, 15152, 15155, 15168, 15182, 15222, 15269, 15301, 15357, 15370, Appendix G, Appendix M, Appendix N
09/25/18	AMEND: 600	12/17/18	ADOPT: 798 AMEND: 791, 791.6, 791.7, 792, 793, 794, 795, 796, 797
Title 13		12/17/18	AMEND: 819, 819.01, 819.02, 819.03, 819.04, 819.05, 819.06, 819.07
01/28/19	AMEND: 20.05	12/17/18	ADOPT: 820.02
01/16/19	AMEND: 550, 551.8, 551.12, 590	12/17/18	ADOPT: 817.04 AMEND: 790
01/08/19	ADOPT: 182.02, 182.03 AMEND: 182.01, 182.02 (renumbered to 182.04)	12/14/18	ADOPT: 4970.17.1 AMEND: 4970.00, 4970.01, 4970.04, 4970.05, 4970.06.1, 4970.06.2, 4970.06.3, 4970.07.2, 4970.08, 4970.09, 4970.10.1, 4970.10.2, 4970.10.3, 4970.10.4, 4970.11, 4970.13, 4970.19.2, 4970.20, 4970.21, 4970.22, 4970.23, 4970.23.1, 4970.23.2, 4970.24.1, 4970.24.2, 4970.25.1, 4970.25.2
01/03/19	AMEND: 553.70	12/13/18	AMEND: 2975
12/26/18	AMEND: 2025	12/10/18	ADOPT: 126.1 AMEND: 125.1, 126 [renumbered to 126.1]
12/26/18	AMEND: 1152.7, 1152.7.1	11/28/18	ADOPT: 716 AMEND: 300
12/20/18	ADOPT: 1217.2, 1263.2	11/28/18	ADOPT: 42 AMEND: 43, 651, 703
12/12/18	AMEND: 1961.2, 1961.3	11/20/18	AMEND: 699.5
12/04/18	ADOPT: 425.01		
11/29/18	AMEND: 17.00		
11/27/18	AMEND: 1157.21		
10/22/18	AMEND: 551.14, 551.24, 555.1, 584		
10/18/18	AMEND: 551.12		
10/10/18	AMEND: Appendix (Article 2.0)		
09/24/18	AMEND: 2222		

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11/15/18 AMEND: 632
 11/15/18 AMEND: 632
 11/15/18 AMEND: Subsection 120.7(m)
 REPEAL: Appendix A Form DFG-120.7
 (10/87)
 11/13/18 AMEND: 1038, 1038.1, 1038.2
 11/06/18 AMEND: 3010, 3011, 3012, 3013, 3015
 11/05/18 ADOPT: 29.11
 10/30/18 ADOPT: 132.6 AMEND: 132.1, 132.2,
 132.3
 10/30/18 AMEND: 11600
 10/29/18 AMEND: 17041, 17042, 17043, 17044,
 17045, 17046
 10/29/18 AMEND: 1038
 10/16/18 AMEND: 890
 10/16/18 AMEND: 1038
 10/15/18 AMEND: 895, 895.1, 912.9, 932.9, 952.9
 09/17/18 ADOPT: 18660.44, 18660.45, 18660.46
 AMEND: 18660.5, 18660.6, 18660.7,
 18660.8, 18660.9, 18660.10, 18660.12,
 18660.13, 18660.15, 18660.16,
 18660.17, 18660.18, 18660.19,
 18660.20, 18660.21, 18660.22,
 18660.24, 18660.25, 18660.30,
 18660.31, 18660.32, 18660.33,
 18660.35, 18660.36, 18660.37,
 18660.39, 18660.41 REPEAL: 18660.23
 09/06/18 AMEND: 1104.1

Title 15

01/28/19 AMEND: 8004.1
 01/23/19 AMEND: 3043.3
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