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PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File No. Z2013-0122-02 125

Amendment

Multi-County Tahoe Forest Hospital District

TITLE 2. GOVERNOR’S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT (“GO-Biz”)

Conflict of Interest Code — Notice File No. Z2013-0118-04 126

TITLE 2. CALIFORNIA STATE LANDS COMMISSION

Leasing or Other Use of Public Lands — Notice File No. Z2013-0118-05 126

TITLE 8. DIVISION OF WORKERS’ COMPENSATION

Workers’ Compensation, Interpreter Services — Notice File No. Z2013-0118-01 129

TITLE 8. DIVISION OF WORKERS’ COMPENSATION

Supplemental Job Displacement Benefits — Notice File No. Z2013-0118-02 134

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

General Industry Safety Orders, Strap-On Foot Protectors; Hoisting, Use of Cribbing, ASME Reference Correction — Notice File No. Z2013-0122-05 141

TITLE 10. MANAGED RISK MEDICAL INSURANCE BOARD

Subscriber Contributions — Notice File No. Z2013-0122-03 147

TITLE 11. DEPARTMENT OF JUSTICE

Electronic Recording Delivery Systems — Notice File No. Z2013-0118-03 149

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

Syringe Exchange Program (SEP) Certification — Notice File No. Z2013-0122-04 154

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

LT1 & LT2 Enhanced Surface Water Treatment Rules — Notice File No. Z2013-0116-01 158

(Continued on next page)

***Time-Dated
Material***

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

Fruit Growers Supply Company Multi–Species Habitat Conservation Plan, Consistency Determination 169

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Tentative Agenda for the February 25, 2013 Meeting of the Developmental and Reproductive Toxicant Identification Committee 172

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Save the Date: Developmental and Reproductive Toxicant Identification Committee Meeting 172

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State 173

Sections Filed, August 29, 2012 to January 23, 2013 174

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT OF INTEREST CODES

AMENDMENT

MULTI-COUNTY: Tahoe Forest Hospital District

A written comment period has been established commencing on **February 1, 2013** and closing on **March 18, 2013**. Written comments should be directed to the Fair Political Practices Commission, Attention Adrienne Tackley, 428 J Street, Suite 620, Sacramento, California 95814.

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 his 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 his 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 pro-

posed conflict of interest code(s). Any written comments must be received no later than **March 18, 2013**. 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 Adrienne Tackley, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, 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 Adrienne Tackley, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT ("GO-Biz")

NOTICE OF INTENTION TO ADOPT A CONFLICT-OF-INTEREST CODE OF THE GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

NOTICE IS HEREBY GIVEN that the Governor's Office of Business and Economic Development, pursuant to the authority vested in it by section 87300 of the Government Code, proposes its Conflict-of-Interest Code.

The Governor's Office of Business and Economic Development proposes to adopt its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. A written explanation of why each position was selected and the reasons for the disclosure categories is available.

Governor's Office of Business and Economic Development was created to serve as California's single point of contact for economic development and job creation efforts. Governor's Office of Business and Economic Development offers a range of services to business owners including: attraction, retention and expansion services, site selection, permit streamlining, clearing of regulatory hurdles, small business assistance, international trade development, assistance with state government, and much more. Copies of the proposed code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed code by submitting them in writing no later than March 17, 2013, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than March 2, 2013, by contacting the Contact Person set forth below.

The Governor's Office of Business and Economic Development has determined that the proposed code:

1. Impose no mandate on local agencies or school districts.

2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries should be directed to:

Virginia Gutierrez
1400 10th Street, 2nd Floor
Sacramento, CA 95814
(916) 322-0659
virginia.gutierrez@gov.ca.gov.

TITLE 2. CALIFORNIA STATE LANDS COMMISSION

Notice is hereby given that the California State Lands Commission (Commission) proposes to amend Sections 1900, 2002 and 2003 under Articles 1 and 2 of Title 2, Division 3, Chapter 1 of the California Code of Regulations (CCR). These sections pertain to the definition of Sovereign Lands and other terms, the leasing of State Lands and rental rates for leasing State Lands.

PUBLIC HEARING

The Commission will hold a public hearing starting at **10:00 a.m. on Tuesday March 26, 2013**, in the main Conference Room at the Sacramento Offices of the California State Lands Commission located at 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825. The facilities are wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Commission requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The hearing will continue until all testimony is completed.

SUBMISSION OF WRITTEN COMMENTS

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. All written comments must be received by the Commission no later than **5:00 p.m. on March 18, 2013**, in order to be considered. Written comments may be submitted by mail, fax, or e-mail, as follows:

Colin Connor
 Assistant Chief, Land Management Division
 California State Lands Commission
 100 Howe Avenue, Suite 100–South
 Sacramento, CA 95825
 Fax: (916) 574–1835
 E–mail: Colin.Connor@slc.ca.gov

PERMANENT ADOPTION OF REGULATIONS

The Commission may thereafter adopt the proposal substantially as described in this Notice, or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposals — with changes clearly indicated — will be available for 15 days prior to its adoption from the person designated in this Notice as contact person. The text will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Public Resources Code Section 6103 requires that the Commission administer all laws and statutes committed to it through the Division of State Lands.

Public Resources Code Section 6108 authorizes the Commission to make and enforce all reasonable and proper rules and regulations for carrying out the duties of the Commission.

Public Resources Code Section 6501.1 authorizes the Commission to lease the lands owned by the State for purposes as the Commission deems advisable.

Public Resources Code Section 6503 directs the Commission, when in receipt of an application, to appraise lands and fix rents.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The amendments to Section 1900 are needed because the terms ‘sovereign lands,’ ‘adjustment formula,’ ‘CPI’ and ‘impact area’ are used in either Section 2002 or 2003 of the proposed regulations.

The amendments to Section 2002 are necessary because the categories of leases and permits shown in the current regulation do not adequately address the types of leases, permits, and agreements that Commission staff is now being asked to authorize. Pursuant to Public Resources Code section 6500 *et seq.* the Commission is authorized to lease lands under its jurisdiction. Effective January 1, 2012, Public Resources Code Section 6503.5 was modified (Chapter 585, Statutes of 2011) to require the Commission to charge rent for Private Rec-

reational Piers. As a result, the rent–free Private Recreational Pier Permit, identified in section 2002(f), will no longer be available. Revising the current categories of leases, permits and agreements will allow Commission staff to better define and structure leases based on the actual or proposed use while rendering certain permits, like the Private Recreational Pier Permit, obsolete.

Section 6503 of the Public Resources Code requires the Commission to *fix the annual rent or other consideration thereof*. The proposed amendments to Section 2003 are necessary in order to update the minimum annual rents, the methodology used in setting rental rates, and the identification of other factors pertaining to the Commission’s rent–setting practices. The current regulations regarding the Commission’s leasing and rent–setting practices were last revised in 1992 while the minimum rents contained in the regulations have not been updated since 1975 and 1982, respectively. These minimum rents are out of date and need to be adjusted for inflation. For example, the pipeline rent rates, under Section 2003, require only \$0.02, per diameter inch per linear foot, in rent and should be updated to reflect the cost of inflation thereby bringing the Commission’s rental rates into line with the suggestions outlined by the 2010 Bureau of State Audit’s (BSA) audit. Second, the BSA audit of the State Lands Commission criticized the Commission not only for failing to adjust minimum annual rents to reflect inflation, but also for failing to use different rent–setting methods and practices to review the value of its leases thereby increasing the amount of revenue generated by its leases. Based on the findings of the BSA audit, the Commission is proposing additional rent–setting methods to address the creation of the new lease categories. For example, adjustments may be made to leases through the application of the California Consumer Price Index. Within this same context, the Commission proposes eliminating the rental methodology based on “the volume of commodities passing over the lease premises” (aka “throughput charges”) because it has been held by a court of law to violate the Commerce Clause of the United States Constitution.¹ Finally, other factors that the Commission staff may take into account when setting the annual rent or adjusting the annual rent include the addition of a reasonable “impact area” to the lease premises, the addition of an administrative fee for reimbursement of staff costs for managing the lease, and the discounting or waiving of rent if the lease results in a significant regional or statewide public benefit.

ANTICIPATED BENEFITS

The Commission staff has determined that the proposed regulations will benefit the State by bringing cur-

¹ *Western Oil and Gas Assn. v. Cory*, 726 F.2d 1340 (1984).

rent the existing out-of-date lease categories, minimum annual rents, rent-setting methods, and other factors pertaining to the Commission's leasing and rent-setting practices. The proposed amendments are anticipated to result in an increase of approximately \$200,000 in revenue to the State. The increase will occur as leases come due for renewal. The re-writing and reorganization of Sections 2002 and 2003 will make the regulations easier to understand and follow.

The proposed regulations are not inconsistent or incompatible with existing state regulations.

SMALL BUSINESS IMPACT STATEMENT

Commission staff finds that the proposed amendments for Title 2, Division 3, Chapter 1, Articles 1 and 2 of the California Code of Regulations may have a minor adverse impact on "small business" as defined in Government Code Section 11342.610. The impact would be from increasing the minimum rent levels. Relative to the Commission's lease categories, small businesses fall into the "Commercial," "Industrial," or "Agricultural" lease category. There are a total of 253 leases in these lease categories. Only 30 (12%) of these 253 leases are at or below the minimum rent levels as shown in the current regulations. Each of these lease categories has a minimum annual rent of \$250. The rent levels for the vast majority of the other leases are generally much higher because they have been set using one of the other rent-setting methods, such as 9% of the appraised value of the leased lands. The 30 leases at or below the minimum rent level would only be subject to the minimum annual rent upon expiration and issuance of the new leases. Unless one of the other rent-setting methods is used at that time, the minimum annual rent for each lease would increase from its current level of \$250 to \$600 annually. According to the most recent data available, in 2009 there were 3.4 million small businesses (defined by the US Small Business Administration as a company with less than 500 employees) in California, with more than 691,000 of these businesses having employees. These regulations could potentially have a minor impact on 30 of those 3.4 million businesses. Considering the above information, the overall impact to small businesses in California is considered minor.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: NONE.

Costs or savings to any state agency: NONE.

Costs or savings to local agencies or school districts which must be reimbursed in accordance with Part 7

(commencing with Section 17500) of Division 4 of the Government Code: NONE.

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

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

Cost impacts on representative private persons or businesses:

The change in rental rates may have a small impact on a limited number of small businesses.

Significant effect on housing costs: NONE.

BUSINESS IMPACTS

The Commission has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

The Commission has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California, and will not result in the elimination of existing businesses nor create or expand businesses in the State of California.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The proposed regulations:

- Will not result in the creation or elimination of jobs within the State of California;
- Will not result in the creation of new businesses or the elimination of existing businesses within the State of California;
- Will not result in the expansion of businesses currently doing business within the State of California.
- Will provide benefits to the health and welfare of California residents, worker safety, and the state's environment. Please refer to the "Anticipated Benefits" section (under the Informative Digest/Policy Statement section).

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Commission must determine that no reasonable alternative that has been considered or

that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

AVAILABILITY OF DOCUMENTS AND
COMMISSION POINTS OF CONTACT

Inquiries concerning the substance of the proposed regulation may be directed to:

Colin Connor
Assistant Chief, Land Management Division
California State Lands Commission
100 Howe Avenue, Suite 100–South
Sacramento, CA 95825
Telephone: (916) 574–1241
Facsimile: (916) 574–1835

Or to:

Shelli V. Haaf
Staff Counsel
California State Lands Commission
100 Howe Avenue, Suite 100–South
Sacramento, CA 95825
Telephone: (916) 574–1850
Facsimile: (916) 574–1855

The Commission has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, Initial Statement of Reasons, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon request from:

Colin Connor
Assistant Chief, Land Management Division
California State Lands Commission
100 Howe Avenue, Suite 100–South
Sacramento, CA 95825
Telephone: (916) 574–1241
Facsimile: (916) 574–1835

In addition, the Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the Internet at the following address:
www.slc.ca.gov/

**TITLE 8. DIVISION OF WORKERS’
COMPENSATION**

**NOTICE OF RULEMAKING AFTER
EMERGENCY ADOPTION**

Workers’ Compensation — Interpreter Services

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers’ Compensation (hereinafter “Administrative Director”), pursuant to the authority vested in her by Labor Code Sections 133, 5307.3, 5710 and 5811, has adopted regulations on an emergency basis to implement the provisions of Labor Code section 4600(g), 4620(d), 5710(b)(5) and 5811 and Government Code sections 11435.30 and 11435.35, as implemented by Senate Bill 863 (Chapter 363, stats. of 2012, effective January 1, 2013).

The regulations amend Article 5.7 of Chapter 4.5, Subchapter 1 of Title 8, California Code of Regulations, sections 9795.1 and 9795.3 and adopt section 9795.5. The regulations govern interpreter services and certification. The regulations implement, interpret, and make specific Labor Code sections 4600(g), 4620(d), 5710(b)(5) and 5811 and Government Code sections 11435.30 and 11435.

The emergency regulations listed below became effective on January 1, 2013, and will remain in effect for a period of 180 days from January 1, 2013. The purpose of this rulemaking is to adopt the emergency regulations on a permanent basis.

PROPOSED REGULATORY ACTION

The Division of Workers’ Compensation proposes to amend Article 5.7 of Chapter 4.5, Subchapter 1 of Title 8, California Code of Regulations, sections 9795.1 and 9795.3, and to adopt section 9795.5 relating to interpreter certification:

Amend section 9795.1	Definitions
Amend section 9795.3	Fees for Interpreter Services
Adopt section 9795.5	Interpreter Directories

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, either orally or in writing, with respect to the subjects noted above. The hearing will be held at the following time and place:

Date: March 19, 2013
Time: 10:00 a.m. to 5:00 p.m., or until conclusion of business
Place: Elihu Harris State Office Building— Auditorium
1515 Clay Street
Oakland, California 94612

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator, Kathleen Estrada, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The Acting Administrative Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 p.m., on March 19, 2013**. The Division of Workers' Compensation will consider only comments received at the Division by that time. Equal weight will be accorded to comments presented at the hearing and to other written comments received by 5 p.m. on that date by the Division.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray
Regulations Coordinator
Division of Workers' Compensation, Legal Unit
P.O. Box 420603
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named

contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: dwcrules@dir.ca.gov.

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than **5:00 p.m., on March 19, 2013**.

AUTHORITY AND REFERENCE

The Acting Administrative Director is undertaking this regulatory action pursuant to the authority vested in her by Labor Code sections 133, 4600, 5307.3, 5710 and 5811.

Reference is to Labor Code sections 4600, 4620, 4621, 5710 and 5811, Labor Code; and Sections 11435.30, 11435.35, and 68562, Government Code.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

This rulemaking defines "qualified interpreter for purposes of medical treatment appointments," adds "medical treatment appointments" as an event for which an interpreter is entitled to a fee, and sets forth the websites where interpreters who are qualified to interpret at workers' compensation appeals board hearings and medical treatment appointments can be found.

Labor Code section 4600 requires the employer to provide medical treatment that is reasonably required to cure or relieve an employee from the effects of his or her injury. Labor Code section 4600(g) provides that "if the injured employee cannot effectively communicate with his or her treating physician because he or she cannot proficiently speak or understand the English language, the injured employee is entitled to the services of a qualified interpreter during medical treatment appointments.

Labor Code section 4600(g) also defines a qualified interpreter for the purposes of an examination. It states, "To be a qualified interpreter for purposes of medical treatment appointments, an interpreter. . . shall meet any requirements established by rule by the administrative director that are substantially similar to the requirements set forth in Section 1367.04 of the Health and Safety Code." Labor Code section 4600(g) also states, "an employer shall not be required to pay for the services of an interpreter who is not certified or is provisionally certified by the person conducting the medical treatment or examination unless either the employer consents in advance to the selection of the individual who provides the interpreting service or the injured worker requires interpreting service in a language other than the languages designated pursuant to Section 11435.40 of the Government Code."

Labor Code section 4600(f) allows for interpreters at medical-legal examinations at the request of the em-

ployer, administrative director, the appeals board or a Workers' Compensation Judge.

Labor Code section 4620(d) has been added and states, "if the injured employee cannot effectively communicate with an examining physician because he or she cannot proficiently speak or understand the English language, the injured employee is entitled to the services of a qualified interpreter during the medical examination. . . . An employer shall not be required to pay for the services of an interpreter who is provisionally certified unless either the employer consents in advance to the selection of the individual who provides the interpreting service or the injured worker requires interpreting service in a language other than the languages designated pursuant to Section 11435.40 of the Government Code."

Labor Code section 5710(b)(5) which relates to interpreters at deposition, has been amended. It states, "If the injured employee or any other deponent does not proficiently speak or understand the English language, upon a request from either, the employer shall pay for the services of language interpreter certified or deemed certified pursuant to Article 9 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of Section 68566 of the Government Code."

Labor Code section 5811(b) has been amended to add several provisions concerning interpreter involvement. Labor Code section 5811(b)(1) reaffirms that for WCAB hearings and conferences, any party producing a witness requiring an interpreter is responsible for arranging for the presence of a qualified interpreter.

Labor Code section 5811(b)(2) has been added. It defines a qualified interpreter as someone who is certified, or deemed certified, pursuant to Government Code section 11435.05 (Title 2, Division 3, Part 1, Chapter 4.5, Article 8), or Government Code section 68566.

A new sentence describes the duties of an interpreter. It states, "The duty of an interpreter is to accurately and impartially translate oral communications and transliterate written materials, and not to act as an agent or advocate. An interrupter shall not disclose to any person who is not an immediate participant in the communications the content of the conversations or documents that the interpreter has interpreted or transliterated unless the disclosure is compelled by court order. An attempt by any party or attorney to obtain disclosure is a bad faith tactic that is subject to Section 5813."

Labor Code section 5811(b)(2) also was amended to add medical appointments to the list of allowable venues for interpreters.

Government Code sections 11435.30 and 11435.35 authorize the Administrative Director to maintain an updated list of certified administrative hearing interpreters and certified medical examination interpreters.

The described regulations were adopted as emergency regulations, effective January 1, 2013. This rule-making would make the regulations permanent. Changes to the text of the regulations that have been made after the adoption of the emergency regulations are shown in italics. These proposed regulations implement, interpret, and make specific the above sections of the Labor Code and Government Code as follows:

Section 9795.1 Definitions

- This section provides definitions for key terms regarding interpreters.
- The definition of "qualified interpreter for purposes of medical treatment appointments" is added to ensure that its meaning, as used in the regulations, will be clear to the regulated public.
- Interpreters "provisionally certified" by "the residing officer at an appeals board hearing, arbitration, at the request of a party or parties" has been deleted from the regulations.
- "Qualified interpreters" has been deleted.
- Deleted from the definitions is the term "formal rehabilitation conference," as the vocational rehabilitation benefit was repealed and these no longer exist.
- *The section has been re-lettered.*

Section 9795.3 Fees for Interpreter Services

- This section was amended to add medical treatment appointments to conform with Labor Code section 5811(b)(2) which was amended to add medical appointments to the list of venues where a qualified interpreter may render services.

Section 9795.5 Interpreter Directories

- *This section has been added to set forth the websites where interpreters who are certified to interpret at workers' compensation appeals board hearings are listed. It also provides that the Administrative Director shall maintain a list of qualified interpreters for the purposes of medical treatment appointments. An interpreter who meets the qualifications of section 9795.1(b) must apply to the Administrative Director to be included on the list through the year and must present evidence of the required documentation. The list shall be reviewed and revised on a yearly basis, and shall be made available on the website www.dir.ca.gov or upon request.*

Objective and Anticipated Benefits of the Proposed Regulations:

The objective of the regulations is to explain what criteria must be met for interpreters who interpret at medical appointments. This will benefit (1) injured workers who will be entitled to the services of interpreters who

have the appropriate education and training to assist injured workers; (2) interpreters who will be paid for their services; and (3) employers and claims administrators who will be assured that the interpreting services are provided to injured workers. The availability of a list of interpreters will also benefit interpreters by providing a directory for the public to use, and it will help injured workers and claims administrators by providing a tool to help find certified and qualified interpreters.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Acting Administrative Director has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Acting Administrative Director has concluded that these are the only regulations that define “qualified interpreter for purposes of medical treatment appointments,” provide “medical treatment appointments” as an event for which an interpreter is entitled to a fee, and set forth the website where interpreters who are qualified to interpret at workers’ compensation appeals board hearings and medical treatment appointments can be found.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Acting Administrative Director has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business: The division is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Statewide adverse economic impact directly affecting businesses and individuals: Although the proposed action will directly affect businesses statewide, including small businesses, and individuals, the Acting Administrative Director concludes that the adverse economic impact, including the ability of California businesses to

compete with business in the other states, will not be significant.

- Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

The Acting Administrative Director concludes that it is (1) unlikely that the proposal will create any jobs within the State of California, (2) unlikely that the proposal will eliminate any jobs within the State of California, (3) unlikely that the proposal will create any new businesses within the State of California, (4) unlikely that the proposal will eliminate any existing businesses within the State of California, and (5) unlikely that the proposal would cause the expansion of the businesses currently doing business within the State of California.

Benefits of the Proposed Action: The benefits anticipated from the regulations are an injured worker’s right to have a qualified interpreter at a medical appointment if the injured worker is not proficient in English. The current regulations have no provision regarding how an interpreter for medical treatments can meet the requirements to be a “qualified interpreter.” Without these regulations, there would be no definition of a “qualified interpreter” for the purposes of translating for an injured worker at medical appointments. A claims administrator is not required to pay for the services of a non-certified interpreter. Therefore, these emergency regulations are necessary to prevent significant harm to the health and safety of injured workers who cannot proficiently speak or understand English. Additionally, the regulations will ensure that interpreters who are certified are used in the judicial aspects of the workers’ compensation system. Finally, the public will be able to find the names of qualified and certified interpreters listed on the websites provided in the regulations.

Small Business Determination: The Acting Administrative Director has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

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

The Acting Administrative Director invites interested persons to present reasonable alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

PUBLIC DISCUSSIONS
OF PROPOSED REGULATIONS

The text of the draft proposed regulations was made available for pre-regulatory public comment from December 4–7, 2012 through the Division’s Internet website (the “DWC Forum”).

AVAILABILITY OF INITIAL STATEMENT
OF REASONS, TEXT OF PROPOSED
REGULATIONS, RULEMAKING FILE
AND DOCUMENTS SUPPORTING THE
RULEMAKING FILE/INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, proposed text of the regulations, pre-rulemaking comments and the Economic Impact Statement (Form STD 399). Also included are studies and documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of the regulations being proposed may be accessed and downloaded from the Division’s website at www.dir.ca.gov. To access them, click on the “Proposed Regulations — Rulemaking” link and scroll down the list of rulemaking proceedings to find the Interpreter Certification link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers’ Compensation, 1515 Clay Street, 17th Floor, Oakland, California 94612, between 9:00 a.m. and 4:30 p.m., Monday through Friday. Copies of the proposed regulations, Initial Statement of Reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

CONTACT PERSON FOR GENERAL QUESTIONS

Non-substantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the

rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
Division of Workers’ Compensation
P.O. Box 420603
San Francisco, CA 94142
E-mail: mgray@dir.ca.gov

The telephone number of the contact person is (510) 286–7100.

CONTACT PERSON FOR
SUBSTANTIVE QUESTIONS

In the event the contact person above is unavailable, or for questions regarding the substance of the proposed regulations, inquiries should be directed to:

Destie Overpeck
Division of Workers’ Compensation
P.O. Box 420603
San Francisco, CA 94142
E-mail: doverpeck@dir.ca.gov

The telephone number of this contact person is (510) 286–7100.

FORMAT OF REGULATORY TEXT

Text of Emergency Regulations Effective January 1, 2013:

Deletions from the original codified regulatory text made by the emergency regulatory text effective January 1, 2013, are indicated by single strike-through, thus: ~~deleted language~~.

Additions to the original codified regulatory text made by the emergency regulatory text effective January 1, 2013, are indicated by single underlining, thus: added language.

Additional Proposed Text Noticed for 45-Day Comment Period:

Deletions from the emergency regulatory text noticed for the 45-day comment period are indicated by strike-through underlining: ~~deleted language~~.

Additions to the original codified regulatory text and emergency regulatory text noticed for the 45-day comment period are indicated by double underlining: added language.

Newly proposed deletions from the original codified regulatory text noticed for the 45-day comment period are indicated by double strike-through: ~~~~deleted language~~~~.

AVAILABILITY OF CHANGES FOLLOWING
PUBLIC HEARING

If the Acting Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly shown will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

AVAILABILITY OF THE FINAL STATEMENT
OF REASONS

Upon its completion, the final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the Division's website at www.dir.ca.gov.

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, and the text of the regulations, will automatically be sent to those interested persons on the Acting Administrative Director's mailing list.

If adopted, the regulations as amended will appear in California Code of Regulations, title 8, commencing with section 9795.1. The text of the final regulations also may be available through the website of the Office of Administrative Law at www.oal.ca.gov.

**TITLE 8. DIVISION OF WORKERS'
COMPENSATION**

**NOTICE OF RULEMAKING AFTER
EMERGENCY ADOPTION**

**Subject Matter of Regulations:
Workers' Compensation — Supplemental Job
Displacement Benefits**

**CALIFORNIA CODE OF REGULATIONS,
TITLE 8, ARTICLES 6, 6.5, 7.5, and 8
SUPPLEMENTAL JOB
DISPLACEMENT BENEFIT**

NOTICE IS HEREBY GIVEN that the Acting Administrative Director of the Division of Workers' Compensation (hereinafter "Acting Administrative Director") pursuant to the authority vested in her by Labor Code sections 133, 4658.5, 4658.6, 4658.7 and 5307.3 has adopted regulations on an emergency basis to implement provisions of Labor Code sections 4658.5

through 4658.7 as implemented by Senate Bill 863 (Chapter 363, stats. of 2012, effective January 1, 2013).

The regulations amend Article 8 of Chapter 4.5, Subchapter 1, of Title 8, California Code of Regulations, section 9813.1 and Articles 6, 6.5, and 7.5 of Chapter 4.5, Subchapter 1.5, of Title 8, California Code of Regulations, sections 10116.9, 10117, 10118, 10133.53, 10133.55, 10133.57, 10133.58 and 10133.60, repeal sections 10133.51 and 10133.52, and adopt Article 7.5 of Chapter 4.5, Subchapter 1.5, of Title 8, California Code of Regulations, sections 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, and 10133.36.

The emergency regulations listed below became effective on January 1, 2013, and will remain in effect for a period of 180 days from January 1, 2013. The purpose of this rulemaking is to adopt the emergency regulations on a permanent basis.

FORMAT OF REGULATORY TEXT

Text of Emergency Regulations Effective January 1, 2013:

Deletions from the original codified regulatory text made by the emergency regulatory text effective January 1, 2013, are indicated by single strike-through: ~~deleted language~~.

Additions to the original codified regulatory text made by the emergency regulatory text effective January 1, 2013, are indicated by single underlining: added language.

**Additional Proposed Text Noticed for 45-Day
Comment Period:**

Deletions from the emergency regulatory text noticed for the 45-day comment period are indicated by strike-through underlining: ~~deleted language~~.

Additions to the original codified regulatory text and emergency regulatory text noticed for the 45-day comment period are indicated by double underlining: added language.

Newly proposed deletions from the original codified regulatory text noticed for the 45-day comment period are indicated by double strike-through: ~~~~deleted language~~~~.

PROPOSED REGULATORY ACTION

The Division of Workers' Compensation has adopted regulations on an emergency basis that amend Article 8 of Chapter 4.5, Subchapter 1, of Title 8, California Code of Regulations, section 9813.1 and Articles 6, 6.5, and 7.5 of Chapter 4.5, Subchapter 1.5, of Title 8, California Code of Regulations, sections 10116.9, 10117, 10118, 10133.53, 10133.55, 10133.57, 10133.58 and 10133.60, repeal sections 10133.51 and 10133.52, and

adopt Article 7.5 of Chapter 4.5, Subchapter 1.5, of Title 8, California Code of Regulations, sections 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, and 10133.36:

- Section 9813.1 Notice of Supplemental Job Displacement Benefit, Notice of Offer of Modified or Alternative Work for Injuries on or After January 1, 2004
- Section 10116.9 Definitions for Articles 6.5 and 7.5
- Section 10117 Offer of Work; Adjustment of Permanent Disability Payments
- Section 10118 Form [DWC-AD 10118 "Notice of Offer of Work for Injuries Occurring Between 1/1/04- 12/31/12."]
- Section 10133.31 Requirement to Issue Supplemental Job Displacement Nontransferable Voucher for Injuries Occurring on or After January 1, 2013
- Section 10133.32 Form [DWC-AD 10133.32 "Supplemental Job Displacement Nontransferable Voucher for Injuries Occurring on or After 1/1/13"]
- Section 10133.33 Form [DWC-AD 10133.33 "Description of Employee's Job Duties"]
- Section 10133.34 Offer of Work for Injuries Occurring on or After January 1, 2013
- Section 10133.35 Form [DWC-AD 10133.35 "Notice of Offer of Work for Injuries Occurring on or After 1/1/13."]
- Section 10133.36 Form [DWC-AD 10133.36 "Physician's Return-to-Work & Voucher Report"]
- Section 10133.51 Notice of Potential Right to Supplemental Job Displacement Benefit
- Section 10133.52 Form [DWC-AD "Notice of Potential Right to Supplemental Job Displacement Benefit Form"]
- Section 10133.53 Form [DWC-AD 10133.53 "Notice of Offer of Modified or Alternative Work for Injuries Occurring Between 1/1/04-12/31/12"]
- Section 10133.55 Form [DWC-AD 10133.55 "Request for Dispute Resolution Before the Administrative Director."]
- Section 10133.57 Supplemental Job Displacement Nontransferable Training Voucher Form for Injuries Occurring Between 1/1/04-12/31/12
- Section 10133.58 State Approved or Accredited Schools

Section 10133.60 Termination of Claims Administrator's Liability for the Supplemental Job Displacement Voucher

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the proposed regulatory action, on the following date:

Date: March 19, 2013
Time: 10:00 a.m. to 5:00 p.m., or until conclusion of business
**Place: Elihu Harris State Office Building — Auditorium
 1515 Clay Street
 Oakland, CA 94612**

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator, Kathleen Estrada, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The Acting Administrative Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 p.m., on March 19, 2013**. The Division of Workers' Compensation will only consider comments received at the Department of Industrial Relations, Division of Workers' Compensation by that time. Equal weight will be accorded to oral comments presented at the hearing and written materials.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94612

Written comments may be submitted via facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: dwcrules@dir.ca.gov.

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than **5:00 p.m., on March 19, 2013.**

AUTHORITY AND REFERENCE

Labor Code sections 133, 4658.5, 4658.6, 4658.7 and 5307.3 authorize the Acting Administrative Director to adopt, amend and repeal these proposed regulations. The proposed regulations implement, interpret, and make specific sections 4658.5, 4658.6 and 4658.7 of the Labor Code.

Reference is to Labor Code sections 124, 4658, and 4658.1.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Section 4658.7 of the Labor Code (effective 1/1/13) requires the Administrative Director to adopt regulations necessary to administrate the supplemental job displacement benefit. Adoption of these regulations promotes fairness and benefits the general welfare of the people of California by providing injured workers with dates of injury on or after January 1, 2013 with a means to retrain and return to work.

Section 4658.5 of the Labor Code provides that an employee is entitled to a supplemental job displacement voucher if the injured employee does not return to work for the employer within 60 days of the termination of temporary disability for injuries occurring through December 31, 2012.

Senate Bill 863 added section 4658.7 for injuries occurring on or after January 1, 2013 and changed the conditions under which an injured worker is entitled to the voucher, the amount of the voucher and the expenses for which it may be used. A permanently partially disabled worker is entitled to a voucher unless the employer makes an offer of regular, modified, or alter-

native work that meets certain criteria. Instead of requiring the offer within 30 days of the termination of temporary disability, Labor Code section 4658.7 allows the employer to offer regular, modified, or alternative work within 60 days of receipt of a report finding that all conditions have become permanent and stationary and that the injury has caused permanent partial disability. The medical report must be from a primary treating physician, Agreed Medical Evaluator, or a Qualified Medical Evaluator.

The statute requires that the medical report that precipitates the offer must be made on a specific form created by the Administrative Director. Labor Code section 4658.7(h)(2) requires that the employer be fully informed of the work capacities and of activity restrictions resulting from the injury that are relevant to potential regular work, modified work, or alternative work. This is intended to make it easier for an employer to perform the return-to-work analysis and understand the injured worker's work capacities so that it can make an informed decision regarding a return to work offer. Under SB 863, injured workers will be provided voucher benefits sooner in the life of their claim.

The described regulations were adopted as emergency regulations, effective January 1, 2013. This rule-making would make the regulations permanent. These regulations implement, interpret, and make specific sections 4658.5 through 4658.7 of the Labor Code as follows:

Item 1 — Section 9813.1. Notice of Supplemental Job Displacement Benefit, Notice of Offer of Modified or Alternative Work for Injuries Occurring on or After January 1, 2004.

- Section 9813.1(a) has been deleted. Assembly Bill (AB) 355 (Chapter 544) repealed the requirement for this notice of the potential right to supplemental job displacement benefit by deleting former subdivision (c) of Labor Code section 4856.
- Therefore, section 9813.1(a) was deleted to conform with the statutory change.

Item 2 — Section 10116.9. Definitions for Articles 6.5 and 7.5.

- This section provides definitions for key terms regarding vouchers.
- The definitions of “furnished” and “receipt” are added to ensure that its meaning, as used in the regulations, will be clear to the regulated public.

Item 3 — Section 10117. Offer of Work; Adjustment of Permanent Disability Payments.

- This section was amended to reflect its application to injuries occurring only until December 31, 2012.

Item 4 — Section 10118. Form [DWC–AD 10118 “Notice of Offer of Work for Injuries Occurring Between 1/1/04– 12/31/12.”].

- This section was amended to reflect its application to injuries occurring only until December 31, 2012.

Item 5 — Section 10133.31. Requirement to Issue Supplemental Job Displacement Nontransferable Voucher for Injuries Occurring on or After 1/1/13.

- This section covers vouchers for injuries on or after January 1, 2013.
- If the injury causes partial permanent disability, the employee is eligible for a voucher unless the employer makes an offer of regular, modified, or alternative work within 60 days after receipt by the claims administrator of the new form “Physician’s Return–to–Work & Voucher Report” and the offer of work lasts at least 12 months. The time for issuance of the offer has changed. Instead of requiring the offer within 30 days of the termination of temporary disability, Labor Code section 4658.7 allows the employer to offer regular, modified, or alternative work within 60 days of receipt of a report finding that all conditions have become permanent and stationary and that the injury has caused permanent partial disability. The medical report must be from a primary treating physician, Agreed Medical Evaluator, or a Qualified Medical Evaluator.
- The statute requires that the medical report that precipitates the offer must be made on a specific form created by the Administrative Director. Labor Code section 4658.7(h)(2) requires that the employer be fully informed of the work capacities and of activity restrictions resulting from the injury that are relevant to potential regular work, modified work, or alternative work. This is intended to make it easier for an employer to perform the return–to–work analysis and understand the injured worker’s work capacities so that it can make an informed decision.
- Labor Code section 4658.7(b)(1)(A) provides that the employer has the option of providing the physician with a job description. If the option is exercised, the physician is to evaluate and describe in the form whether the work capacities and activity restrictions are compatible with the physical requirements set forth in that job description.

- Labor Code section 4658.7(b)(1)(B) provides that the claims adjuster is to send the form to the employer.
- Labor Code section 4658.7(c) requires an employer to offer an injured worker the voucher within 20 days after the window for making an offer of work.
- Labor Code section 4658.7(d) provides that the voucher may be redeemed for as much as an aggregate of \$6,000. For injuries before January 1, 2013, the amount varies depending on the level of disability.
- The expenses for which an injured worker could use the voucher were limited for injuries occurring before January 1, 2013. An injured worker could use the voucher for payment of tuition, fees, books and other expenses required by the school for retraining and skill enhancement, with 10 percent of the voucher for vocational or return–to–work counseling.
- For injuries occurring on or after January 1, 2013, vouchers can be used for:
 1. Payment of education–related retraining or skill enhancement, or both, at a California public school or with a provider that is certified and on the state’s Eligible Training Provider List, including payment of tuition, fees, books, and other expenses required by the school for retraining or skill enhancement;
 2. Payment for occupational licensing or professional certification fees, related examination fees and examination preparation course fees;
 3. Payment for the services of licensed placement agencies, vocational or return–to–work counseling and resume preparation, for as much as a combined 10 percent of the amount of the voucher;
 4. Purchase of tools required by a training or educational program in which the employee is enrolled;
 5. Purchase of computer equipment including, but not limited to monitors, software, networking devices, input devices (such as keyboard and mouse), peripherals (such as printers), and tablet computers of up to one thousand dollars (\$1,000) reimbursable after cost is incurred and submitted with appropriate documentation. The employee

shall not be entitled to reimbursement for purchase of games or any entertainment media;

6. Up to \$500 for miscellaneous expense reimbursement or advance, payable on request without itemized documentation or accounting. The request can be made via email or regular mail. The employee is not entitled to any other voucher payment for transportation, travel, telephone or Internet access, clothing or uniforms or incidental expenses.

Item 6 — Section 10133.32. Form [DWC–AD 10133.32 “Supplemental Job Displacement Non–Transferable Voucher for Injuries Occurring on or After 1/1/13”].

- This section is the voucher form. It is sent to the injured worker with an expiration date and information on how to redeem the voucher.

Item 7 — Section 10133.33. Form [DWC–AD 10133.33 “Description of Employee’s Job Duties”].

- This is an optional form which can be sent to a physician prior to any medical evaluation declaring the employee permanent and stationary with permanent partial disability.
- Labor Code section 4658.7(b)(1)(A) provides that the employer has the option of providing the physician with a job description. If the option is exercised, the physician is to evaluate and describe in the form whether the work capacities and activity restrictions are compatible with the physical requirements set forth in that job description.

Item 8 — Section 10133.34. Offer of Work for Injuries Occurring on or After 1/1/13.

- Labor Code section 4658.7 provides that the employer shall not be liable for the supplemental job displacement benefit if the employer timely offers regular, modified or alternative work, which must meet certain criteria.
- This section sets forth the criteria for the offer of work.

Item 9 — Section 10133.35. Form [DWC–AD 10133.35 “Notice of Offer of Work for Injuries Occurring on or After 1/1/13.”].

- This section is a mandatory form that the employer must send to the injured employee if the employer has regular, modified or alternative work available.
- On page two of this form, the term “regular” has been added to the emergency regulatory text and is indicated by double “underlining.”

- On page two of this form next to the heading “Position Requirements,” the phrase “If the offer is for regular work, skip this page” has been deleted from the emergency regulatory text and is indicated by double strike through.

Item 10 — Section 10133.36. Form [DWC–AD 10133.36 “Physician’s Return–to–Work & Voucher Report.”].

- This section is the mandatory form which Labor Code section 4658.7(h)(2) requires to fully inform the employer of work capacities and of activity restrictions resulting from the injury that are relevant to potential regular work, modified work, or alternative work.

Item 11 — Section 10133.51. Notice of Potential Right to Supplemental Job Displacement Benefit.

- This section was deleted to conform with AB 335 (Chapter 544) which deleted the requirement to provide a notice of potential rights to supplemental job displacement benefit.

Item 12 — Section 10133.52. Form [DWC–AD “Notice of Potential Right to Supplemental Job Displacement Benefit Form.”].

- This section was deleted to conform with AB 335 (Chapter 544) which deleted the requirement to provide a notice of potential rights to supplemental job displacement benefit.

Item 13 — Section 10133.53. Form [DWC–AD 10133.53 “Notice of Offer of Modified or Alternative Work for Injuries Occurring Between 1/1/04–12/31/12.”].

- This section was amended to reflect its application to injuries occurring only until December 31, 2012.

Item 14 — Section 10133.55. Form [DWC–AD 10133.55 “DWC–AD 10133.55 “Request for Dispute Resolution Before the Administrative Director.”].

- This section is the form used to request dispute resolution before the Administrative Director regarding the supplemental job displacement benefit.
- This form was amended to include disputes regarding vouchers for injuries occurring on or after January 1, 2013.

Item 15 — Section 10133.57. Supplemental Job Displacement Nontransferable Training Voucher Form for Injuries Occurring between 1/1/04 and 12/31/12.

- This section was amended to reflect its application to injuries occurring only until December 31, 2012.

Item 16 — Section 10133.58. State Approved or Accredited Schools.

- Labor Code section 4658.7(e)(1) provides that the voucher may be applied towards payment for education-related retraining or skill enhancement, or both at a provider that is on the state’s Eligible Training Provider List.
- This section was amended to reflect changes to eligible providers.

Item 17 — Section 10133.60. Termination of Claims Administrator’s Liability for the Supplemental Job Displacement Voucher.

- Time for use of the voucher is limited. Labor Code section 4658.7(f) provides that a voucher expires two years after the date it is furnished, or five years after the date of injury, whichever is later.
- The employee is not entitled to payment of reimbursement of any expenses that have not been incurred and submitted to the employer with appropriate documentation before the expiration date.

Objective and Anticipated Benefits of the Proposed Regulations:

The objective of the proposed regulations is to administer the supplemental job displacement benefit to injured workers who cannot return to work with dates of injury occurring on or after January 1, 2013 as mandated by Labor Code sections 4568.5 through 4658.7. In addition, this rulemaking action amends and repeals existing regulations to conform to statutory changes mandated by SB 863.

The proposed regulations will be beneficial to the health and welfare of California residents, worker safety, and the state’s environment by making it easier for an employer to perform the return-to-work analysis and understand the injured worker’s work capacities so that it can make an informed decision regarding a return-to-work offer. The proposed regulations also ensure that injured workers who are not given a return-to-work offer receive the supplemental job displacement voucher earlier in the life of the claim so that it can be fully utilized. All eligible injured workers who are not timely returned to work are entitled to the same \$6000 voucher and the expenses for which an injured worker can use the voucher have been expanded to include computer equipment and miscellaneous expense reimbursement allowing the injured worker greater flexibility in the utilization of the voucher. Returning injured workers to productive work will have a positive effect on the state’s economy thereby benefitting the health and welfare of California residents, worker safety, and the state’s environment.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The Acting Administrative Director has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Acting Administrative Director has concluded that these are the only regulations that concern supplemental job displacement benefits for purposes of Labor Code sections 4658.5, 4658.6 and 4658.7.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Acting Administrative Director has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business: The Administrative Director is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Statewide adverse economic impact directly affecting businesses and individuals: The proposed regulations change existing procedures and forms to comply with statutory changes of the supplemental job displacement benefit. Minor transactional costs will be offset by the elimination of the required notice. Therefore, the Acting Administrative Director concludes that the regulations will not have an adverse economic impact, nor affect the ability of California businesses to compete with businesses in other states.
- Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

The Acting Administrative Director concludes that it is (1) unlikely the proposal will create any jobs within the State of California, (2) unlikely that the proposal will eliminate any jobs within the State of California, (3) unlikely that the proposal will create any new busi-

nesses within the State of California, (4) unlikely that the proposal will eliminate any existing businesses within the State of California, and (5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California.

Benefits of the Proposed Action: The benefit anticipated from the regulations is returning injured workers to productive work. The eligibility, amount and format of the benefit are prescribed by statute. The proposed regulations provide the forms and make specific the procedures. The regulations not only make it easier for the employers to assess a return-to-work offer, but eligible workers are also provided this benefit earlier in the life of the claim. The voucher amount is the same regardless of the level of permanent disability so that all injured workers who are not provided a return-to-work offer can take full advantage of this benefit equally. Specifically, the regulations will benefit the health and welfare of California residents, worker safety, and the environment by providing a means for injured workers to train to find gainful employment.

Small Business Determination: The Acting Administrative Director has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Acting Administrative Director must determine that no reasonable alternative considered or brought to the attention of the Acting Administrative Director'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 Acting Administrative Director invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period, or at the public hearing.

CONTACT PERSON FOR GENERAL QUESTIONS

Non-substantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
P.O. Box 420603
San Francisco, CA 94612
E-mail: mgray@dir.ca.gov
Telephone: (510) 286-7100

CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person is unavailable, or for questions regarding the substance of the proposed regulations, inquiries should be directed to:

Carol Finuliar or Karen Pak
Division of Workers' Compensation
P.O. Box 420603
San Francisco, CA 94142
Email: cfinuliar@dir.ca.gov
kpak@dir.ca.gov
Telephone: (510) 286-7100

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

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this Notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, proposed text of the regulations, pre-rulemaking comments and the Economic Impact Statement (Form STD 399). Also included are studies and documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of the regulations being proposed may be accessed and downloaded from the Division's website at www.dir.ca.gov. To access them, click on the "Proposed Regulations — Rulemaking" link and scroll down the list of rulemaking proceedings to find the Supplemental Job Displacement Benefit (SJDB) link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 17th Floor, Oakland, California 94612, between 9:00 a.m. and 4:30

p.m., Monday through Friday. Copies of the proposed regulations, Initial Statement of Reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Acting Administrative Director may adopt the proposed regulations substantially as described in this notice. If the Acting Administrative Director makes modifications which are sufficiently related to the originally proposed text, the Acting Administrative Director will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Administrative Director adopts the regulations as received.

**AVAILABILITY OF FINAL STATEMENT
OF REASONS**

Upon its completion, the final Statement of Reasons will be available and copies may be requested from the contact person named in this Notice or may be accessed on the Division's website at www.dir.ca.gov.

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, and the text of the regulations, will automatically be sent to those interested persons on the Administrative Director's mailing list.

If adopted, the regulations as amended, will appear in California Code of Regulations, title 8, commencing with section 9813.1. The text of the final regulations also may be available through the website of the Office of Administrative Law at www.oal.ca.gov.

**TITLE 8. OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

**NOTICE OF PUBLIC MEETING/PUBLIC
HEARING/BUSINESS MEETING OF THE
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD AND NOTICE OF
PROPOSED CHANGES TO TITLE 8 OF THE
CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and

Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **March 21, 2013**,
at 10:00 a.m.
in the Auditorium of the
State Resources Building
1416 9th Street, Sacramento,
California.

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

PUBLIC HEARING: On **March 21, 2013**,
at 10:00 a.m.
in the Auditorium of the
State Resources Building
1416 9th Street, Sacramento,
California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **March 21, 2013**,
at 10:00 a.m.
in the Auditorium of the
State Resources Building
1416 9th Street, Sacramento,
California.

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

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

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for

an ALS or CART should be made no later than five (5) days before the hearing.

**NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **March 21, 2013**.

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7,
Article 10, Section 3385
Strap-On Foot Protectors
2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7,
Article 98, Section 4994
**Hoisting, Use of Cribbing, ASME
Reference Correction**

Descriptions of the proposed changes are as follows:

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7,
Article 10, Section 3385
Strap-On Foot Protectors

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

Amendments in 2006 and 2009 that updated national consensus standards references in Section 3385 for foot protection resulted in the unintended consequence of prohibiting the use of strap-on foot protectors as protective footwear. The referenced American National Standards Institute (ANSI) Z41-1999, American National Standard for Personal Protection-Protective Footwear, the American Society for Testing and Materials (ASTM) F2412-05, Standard Test Methods for Foot Protection, and ASTM F2413-05, Standard Specification for Performance Requirements for Foot Protection contain identical performance and test methods for protective footwear that exclude strap-on foot protection devices by mandating that toe caps be an integral and permanent part of the footwear. Additionally,

ANSI Z41-1999, Section 1.4.1 states that strap-on foot protection devices are not considered acceptable foot protection. These 2006 and 2009 changes to Section 3385(c) resulted in variances and led to this proposal, as the above ANSI and ASTM standards excluded the strap-on foot protectors, even though the foot protectors are designed to meet the performance testing mandated under the above ANSI and ASTM standards.

The proposed amendments provide employers and employees with the option to use strap-on foot protectors as an effective means to protect employees exposed to possible foot injuries from falling objects, crushing or penetrating actions as an alternative to conventional safety toe footwear. These provisions were derived in part from conditions imposed in the Board's variance decision regarding OSHSB File Nos. 09-V-124 and 09-V-125.

Federal OSHA's comparable standards contained in 29 CFR 1910.136(b)(2) allow employers to utilize protective footwear that is proven equally effective by the employer and includes strap-on protectors; an alternative practice that is not permitted in California. Additionally, 29 CFR 190.132(h)(3) states that if employers provide metatarsal guards (strap-on foot protectors) and allow employees, at their request, to use shoes or boots with built-in metatarsal protection, the employers are not required to reimburse the employee for the shoes or boots. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is "the only agency in the state authorized to adopt occupational safety and health standards." When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Harmonizes California's standard with the existing federal regulations, in that the federal regulations contained in 29 CFR 1910.136(b) allow employers to utilize protective footwear that is proven equally effective by the employer. The proposal, therefore, includes the use of strap-on foot protectors provided the protectors are proven equally effective, an alternative that is not found in current Title 8 regulations. This proposal would permit the use of strap-on foot protectors.

- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations are provided by such things as the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts.
- Is the least burdensome effective alternative. Before 2006 strap-on foot protectors were also permitted in California. However, in 2006 and 2009, changes to Section 3385(c) added references to ANSI and ASTM standards that excluded strap-on foot protection devices and thereby inadvertently eliminated the option for employers to provide strap-on foot protectors as foot protectors. This proposal provides employers the flexibility to use strap-on foot protectors as allowed under the comparable federal standard.

Section 3385. Foot Protection.

Section 3385 contains protective footwear standards to control worker exposure to foot injuries from electrical hazards, hot, corrosive, poisonous substances, falling objects, excessive moisture, crushing or penetrating actions.

This proposal amends Section 3385 by adding a title to existing subsection (c) to read "Protective Footwear" and adding subsections (c)(3) and (c)(4). The proposed subsection (c)(3) contains proposed protective footwear standards which require maintenance in accordance with the manufacturer's recommendations, and proposed subsection (c)(4) prohibits the use of damaged, defective or deformed protective footwear. These proposed amendments will ensure that workers are not injured from improperly maintained or defective protective footwear. Additionally, subsection (c)(2) is amended for clarity and consistency with proposed subsection (d)(2).

The proposed subsection (d), titled "Strap-On Foot Protectors," contains proposed foot protector standards which address the following:

- Performance testing that meets impact, compression and clearance standards in the referenced ANSI and ASTM standards;
- Labeling and marking requirements;
- Effective use and maintenance requirements in accordance with the manufacturer's recommendations;
- Prohibiting the use of damaged, defective or deformed foot protectors;
- Selection requirements to ensure proper fit of foot protectors;

- Employee training requirements for proper fit, selection, inspection and use for those who use the strap-on foot protectors.

The proposed subsection (d) will ensure that, when used, the strap-on foot protectors are effective in protecting the worker's feet from injury. Among other things, subsection (d) ensures that the strap-on protectors selected provide equivalent safety to ANSI and ASTM compliant class 75 protective footwear by mandating the strap-on foot protectors meet the same performance testing requirements, that the strap-on foot protectors are properly maintained, that employees do not use damaged, defective or deformed foot protectors, that the selected foot protectors properly fit the wearer and employees using the strap-on foot protectors are properly trained. It is noted, that, while footwear with built-in protection is cumbersome and causes discomfort or fatigue in certain work situations, the use of lighter, less restrictive strap-on foot protectors might enhance safety.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal removes inflexibility from the standard by permitting the use of alternative foot protection devices. The employer may choose to continue use of currently mandated foot protection and not supply strap-on foot protectors. For employers who provided the strap-on foot protectors before 2006, they will again be able to utilize these devices.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

This proposed regulation does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES
AND RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The Board has determined that the proposed amendments may affect small businesses. However, no adverse economic impact is anticipated. This proposal

will create consistency with foot protection practices permitted under federal OSHA standards and under States’ standards that use the federal standards that allow the use of strap-on foot protection devices. This consistency will support and encourage intrastate and interstate commerce while providing effective foot protection at places of employment in California.

Therefore, the proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

ALTERNATIVES STATEMENT

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

- 2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7,
Article 98, Section 4994
**Hoisting, Use of Cribbing, ASME
Reference Correction**

INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW

Title 8, Section 4994(b)(4) requires the use of cribbing (i.e.: rigid plates, sheets, timbers, used to distribute the load and provide a level, secure surface for the stabilizer or outrigger to rest upon when underlying ground conditions are inadequate to provide a safe and secure surface capable of supporting the load) at all times. Previously, cribbing had been based upon the need for additional support after considering the existing ground surface conditions and supporting strata and whether the existing ground conditions can support the crane’s load. In his January 16, 2009, e-mail transmission to the Board staff, Mr. Bradley Closson suggests the phrase, “If needed,” be inserted at the beginning of subsection (b)(4) to require cribbing only when needed as dictated by ground conditions. He further states that subsection (b)(5) incorrectly cites a section of the American Society of Mechanical Engineers (ASME) B30.22-2000 standard, which applies only to articulating boom cranes and not the majority of cranes that have straight booms.

Mr. Closson also observed, and staff agrees, that Section 4994 addresses only “outriggers” but not “stabilizers.” In fact, outriggers and stabilizers, while similar, are not the same pieces of equipment. Stabilizers were initially used on older cranes and commercial truck-mounted cranes to compensate for the weight of the vehicle or crane and prevent it from going out of level; a shorter hydraulic ram lift “stabilized” the crane or vehicle. Since the truck tires remained touching the ground, the vehicle’s brakes kept lateral movement under control allowing the stabilizers to not take much of the lateral load. As technology progressed, these devices were made more structurally competent, making it possible to lift the entire vehicle and crane/load.

Cranes that historically used stabilizers now use outriggers and the industry mistakenly uses the words almost interchangeably. In general, a “stabilizer” is intended to alleviate some of the weight of the crane off of the support surface, and an “outrigger” is designed to be able to lift its portion of the crane off of the ground.

This rulemaking action proposes amending Section 4994 to resolve the issues identified by Mr. Closson. The proposed amendment is intended to provide specificity and clarity in Title 8 by deleting incorrect and outdated references, distinguishing between “outriggers” and “stabilizers,” and allowing the use of cribbing based upon necessity, given the fact that some ground surface conditions are able to provide firm, secure support. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal regulations in that the federal regulations do not address General Industry requirements for cranes and do not distinguish between outriggers and stabilizers, which are not interchangeable pieces of equipment. This proposal will relieve the full time requirement to use cribbing regardless of conditions or necessity.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The

consistency and compatibility of that system’s component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts.

- Is the least burdensome effective alternative. Although similar in function, the proposal removes any doubt that outriggers and stabilizers are not considered equivalent devices. This proposal will also allow employers the ability to use cribbing for additional support based on necessity and the crane’s load and support material.

Section 4994. Hoisting

Existing Section 4994 establishes operating rules for hoisting with cranes and other hoisting equipment.

Subsection (a)

Existing subsection (a) requires that a crane’s wheels or tracks cannot be off the ground unless the crane is properly bearing on outriggers. This amendment will add the word “stabilizers” as an alternative to the word “outriggers” where mentioned in the text. This change improves technical accuracy, and hence clarity by removing the incorrect implication that outriggers and stabilizers are interchangeable words.

Subsection (b)

Existing subsection (b) concerns the use of outriggers when the load to be handled is exceeded. Subsection (b)(2)(C) is proposed for deletion because the issues of stabilizer pad sufficiency and crane stability are addressed in ASME consensus standards that are proposed for incorporation by reference in subsection (b)(5). Existing (b)(4) is firm in requiring the use of cribbing at every job. The proposed amendment inserts the phrase, “If needed. . . ,” to allow for situations where substantial cribbing (cribbing free of defects that is of sufficient thickness, length and strength) is not necessary for additional support. Existing (b)(5) cites an incorrect section of ASME B30.22–2000 which applies only to articulating boom cranes. This amendment deletes the incorrect citation of ASME B30.22, adds ASME B30.5 as a reference to include cranes with fixed booms, and updates the reference to the latest edition of both standards. Further, a reference to Section 1611.2(q) has been added for construction industry use of outriggers and stabilizers. Revising the regulatory language will ensure employers are not unnecessarily required to provide cribbing in situations when it is not needed to safely support the load, ensure that cribbing is in fact substantial enough to support the load when used, and to provide the correct consensus standard references, thus improving clarity and eliminating the inconsistencies identified above.

DOCUMENTS INCORPORATED
BY REFERENCE

1. The American Society of Mechanical Engineers, ASME B30.22–2010, Articulating Boom Cranes, Section 22–3.2.4.
2. The American Society of Mechanical Engineers, ASME B30.5–2011, Mobile and Locomotive Cranes, Section 5–1.2.

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the documents by reference. Copies of these documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal allows flexibility to determine the proper use of cribbing based on necessity and not at all times. The amendment clarifies that stabilizers and outriggers perform similar functions but are not the same devices. The proposal also removes an inaccurate citation to an ASME standard which by its scope only applies to a specific class of cranes.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

This proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, this proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

This proposed regulation does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES
AND RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. The proposal would provide businesses, small or large, clear direction in the proper use of cribbing based upon the need for additional support. This regulatory proposal removes a referral to a national consensus standard that is not applicable to all affected cranes equipped with stabilizers. In addition, the proposal clarifies that a stabilizer is not the same as an outrigger.

Therefore, the proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

ALTERNATIVES STATEMENT

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

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than **March 15, 2013**. The official record of the rule-making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on **March 21, 2013**, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based is open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 10. MANAGED RISK MEDICAL INSURANCE BOARD

AMEND SECTION 2698.401

NATURE OF PROCEEDING

NOTICE IS HEREBY GIVEN that the Managed Risk Medical Insurance Board (MRMIB) is proposing to take the action described in the Informative Digest.

A public hearing regarding this proposal will be held on March 19, 2013, at 1:30 p.m., at 1000 G Street, Suite 450, Sacramento, CA 95814.

Following the public hearing MRMIB may thereafter adopt the proposal substantially as described below or may modify the proposal if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the:

Managed Risk Medical Insurance Board
Attn: Dianne Knox
1000 G Street, Suite 450
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at (916) 445-0898 or by e-mail to dknox@mrmib.ca.gov. Comments must be received by no later than 5:00 p.m. on March 19, 2013.

AUTHORITY AND REFERENCE

Authority: Sections 12711 and 12712, Insurance Code.

Reference: Sections 12713, 12736, 12737, and 12738, Insurance Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Insurance Code Section 12700, et seq., established the Major Risk Medical Insurance Program (MRMIP) in 1991. MRMIP is administered by the Managed Risk Medical Insurance Board (MRMIB). The program provides access to health insurance for individuals who are denied health insurance coverage, or offered excessive premiums, because of a pre-existing medical condition. Program subscribers and dependent subscribers can select from health plans that contract with the MRMIB.

Section 2698.401 of Title 10 of the California Code of Regulations establishes the method in which the MRMIP subscriber contributions are calculated. On September 30, 2012, the Governor signed AB 1526 (Chapter 855, Statutes of 2012) and it took effect on January 2, 2013. AB 1526 amends the MRMIP statute (section 12737 of the California Insurance Code) to permit MRMIB to subsidize subscriber premiums during 2013 so that subscribers pay as little as 100% of the standard average individual rates, i.e., the rates charged to insurable individuals, instead of the current 125%.

At its October 17, 2012 meeting, the Board adopted the proposed emergency regulatory change. On November 7, 2012, MRMIB submitted the emergency regulation to the Office of Administrative Law (OAL) and it was effective November 19, 2012.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The MRMIB has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulation that would relate to or affect this area, MRMIB has concluded that this is the only regulation that concerns subscriber premiums for the MRMIP.

**DISCLOSURES REGARDING
THE PROPOSED ACTION**

MRMIB has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None. Although this regulatory change would provide an increased sub-

sidized cost per subscriber, the overall costs would be maintained within the current funding because of the current reduced enrollment in the program.

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

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

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

Cost impact on representative private person or business: The proposed action will decrease MRMIP subscriber premiums for the calendar year 2013.

Significant effect on housing costs: None.

Results of Economic Impact Analysis/Assessment

The MRMIB concludes that it is: (1) unlikely that the proposed action will create any jobs within the State; (2) unlikely that the proposed action will eliminate any jobs within the State; (3) unlikely that the proposed action will create any new businesses within the State; (4) unlikely that the proposed action will eliminate any existing business within the State; and (5) unlikely that the proposed action will cause the expansion of business currently doing business within the State.

Benefits of the Proposed Action: The proposed action would benefit the health and welfare of California residents. The State of California provides several programs for low- or mid-income individuals and, in the case of MRMIP, individuals with pre-existing medical conditions, who receive funds under Proposition 99. This proposed regulation would provide an increased subsidized cost per subscriber, thus decreasing their risk of medical bankruptcy. However, the overall costs would be maintained within the current funding because of the current reduced enrollment.

Consideration of Alternatives

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

MRMIB invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period, or at the public hearing.

CONTACT PERSONS

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

Dianne Knox
 Managed Risk Medical Insurance Board
 1000 G Street, Suite 450
 Sacramento, CA 95814
 (916) 324-0592

or

Laurie Herrera
 Managed Risk Medical Insurance Board
 1000 G Street, Suite 450
 Sacramento, CA 95814
 (916) 327-8243

INITIAL STATEMENT OF REASONS

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which this proposal is based, may be obtained upon request from the Managed Risk Medical Insurance Board at 1000 G Street, Suite 450, Sacramento, CA 95814. These documents may also be viewed and downloaded from the MRMIB website at www.mrmib.ca.gov.

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

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

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named above. The Final Statement of Reasons and the Rulemaking File will also be posted on the MRMIB website at www.mrmib.ca.gov.

WEBSITE ACCESS

Materials regarding this proposal can be found at www.mrmib.ca.gov.

TITLE 11. DEPARTMENT OF JUSTICE

NOTICE FOR PROPOSED AMENDMENTS TO THE DEPARTMENT OF JUSTICE REGULATIONS PERTAINING TO ELECTRONIC RECORDING DELIVERY SYSTEM

The Department of Justice (DOJ)/Electronic Recording Delivery System (ERDS) program under the authority of the Electronic Recording Delivery Act of 2004 (ERDA), AB 578 (Chapter 621, Statutes of 2004), as amended, is requesting approval to amend six (6) of the nine (9) Articles of the ERDS regulations, CCR, Title 11, Division 1, Chapter 18, Articles 1-9.

The DOJ is requesting to amend regulations sections 999.121 through 999.223 to provide clearer guidance to the Counties and the individuals that use an ERDS.

Public Hearing Dates, Time and Place:

No public hearing has been scheduled for the proposed regulatory action; however, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to the Administrative Procedure Act, Government Code section 11346.8.

Written Comment Period:

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person(s) listed below. The written comment period closes on **March 18, 2013 at 5 p.m.** Only written comments received by that time shall be considered.

Contact Person(s):

Any requests for or questions regarding the regulations package should be directed to:

Michelle N. Mitchell, Field Representative
 California Department of Justice
 California Justice Information Services Division
 Electronic Recording Delivery System
 P.O. Box 160526
 Sacramento, CA 95816-0526
 Telephone: (916) 227-1127

OR

Christina Rogers, Assistant Bureau Chief
 California Department of Justice
 California Justice Information Services Division
 Electronic Recording Delivery System
 P.O. Box 160526
 Sacramento, CA 95816-0526
 Telephone: (916) 227-3059

Authority and Reference

The Department is authorized to adopt these regulations pursuant to the Government Code section 12586(b) and to implement, interpret, and make specific the provisions of Government Code Section 12580 et seq. Authority Cited: Sections 27392(a), 27393, 27393(b), 27393(b)(6), 27394(a), 27394(b), 27394(c), 27395(a), 27395(b), 27395(c), 27395(d) and 27395(e), 27396(a), 27396(b), 27396(b)(1), Government Code. Reference: Sections 27390(b)(2), 27390(b)(8), 27391, 27391(a), 27391(b), 27391 (e), 27392, 27392(a), 27392(b), 27393(b), 27393(b)(2), 27393(b)(3), 27393(b)(6), 27393(b)(7), 27393(b)(9), 27393(b)(10), 27393(b)(12), 27393(c), 27394, 27394(a), 27394(b), 27394(c), 27394(d), 27394(e), 27394(f), 27395, 27395(a), 27395(b), 27396, 27396(a), 27396(b), 27396(b)(1), 27397(a), 27397(b), 27397.5, 27397.5(d)(2) and 27396 Government Code; and Sections 1203.4, 11105 and 11105.2, Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Existing Laws and Regulation

Existing law generally specifies that the recorder of any county may, in lieu of a written paper, accept for recording a digitized image of a recordable instrument, subject to specified conditions. AB 578 enacted the Electronic Recording Delivery Act of 2004, to authorize a county recorder, upon approval by resolution of the board of supervisors and system certification by the Attorney General, to establish an electronic recording delivery system for the delivery for recording of specified digitized and digital electronic records, subject to specified conditions, including system certification, regulation, and oversight by the Attorney General. It authorizes a county recorder to include in its electronic recording delivery system a secure method for accepting for recording a digital or digitized electronic record that is an instrument of reconveyance, substitution of trustee, or assignment of deed of trust, subject to specified conditions. It requires participating counties to pay for the direct cost of regulation and oversight by the Attorney General, and authorizes those counties to impose fees to cover those costs.

Anticipated Benefits of the Proposed Regulation:

The DOJ concludes that the benefits of this program will ensure the safety and security of the documents being transmitted electronically and that all California citizens' personal information is also being transmitted securely. The background check conducted on individuals participating within the program promotes fairness and social equity for all California citizens. The proposed regulatory action will benefit the general welfare

of California by ensuring the conservation, maintenance, and utilization of the sustainable living resources.

The DOJ concludes that the non-monetary benefits of this program will ensure the protection of safety and the environment, prevention of discrimination, and security for all California citizens.

The DOJ is unaware of any inconsistencies or incompatibilities with existing state regulations.

Description of the Effect of the Proposed Action

The following items outline the proposed amendments:

- These amendments include the DOJ's reorganization information which required amendments to all ERDS forms, which is incorporated herein by reference.
- The re-fingerprinting process was eliminated due to the DOJ having subsequent arrest authority.
- The amendments allow secure access users to bundle Type 1 and Type 2 instruments within the same ERDS payloads.
- Amendments have been made to ensure that the ERDS are utilizing the latest final NIST/FIPS publications, and a timeframe was added for updates, which is incorporated herein by reference.
- Removed the word "staff" and replaced it with "representative."
- Removed items that are not technically feasible to audit.
- Title changed Form # ERDS 0002 from: Application for DOJ Computer Security Auditor Approval to: Application for Computer Security Auditor Approval, which is incorporated herein by reference.
- Title changed Form # ERDS 0004 from: Attachment to ERDS 0002 Computer Security Auditor Significant Experience Reference(s) to: Reference(s) for ERDS Computer Security Auditor, which is incorporated herein by reference.
- Amended the minimum requirements to become an ERDS Auditor.
- Amended timeline for inspecting sub-counties.
- Added language for local inspections to be all-inclusive.
- Inspection letters to be mailed out 30 days instead of 10 days to allow for follow-up questions.

Section 999.121 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.
- Proof of Fingerprinting was eliminated due to the DOJ having subsequent arrest authority under Government Code section 27395(c)(3).

Section 999.133 is amended as follows:

- The ERDS payload structure was amended so that secure access authorized users can include both Type 1 and Type 2 instruments within the same payload.

Section 999.137 is amended as follows:

- Amendments were made so that the ERDS users are utilizing the latest final publications of NIST/FIPS guidelines as required and to include a timeline as to when those updates must be implemented, which is incorporated herein by reference.

Section 999.139 is amended as follows:

- Amendments were made so that the ERDS users are utilizing the latest final publications of NIST/FIPS guidelines as required and to include a timeline as to when those updates must be implemented, which is incorporated herein by reference.

Section 999.141 is amended as follows:

- Amendments were made so that the ERDS users are utilizing the latest final publications of NIST/FIPS guidelines as required and to include a timeline as to when those updates must be implemented, which is incorporated herein by reference.

Section 999.143 is amended as follows:

- Amendments were made so that the ERDS users are utilizing the latest final publications of NIST/FIPS guidelines as required and to include a timeline as to when those updates must be implemented, which is incorporated herein by reference.

Section 999.144 is amended as follows:

- Amendments were made so that the ERDS users are utilizing the latest final publications of NIST/FIPS guidelines as required and to include a timeline as to when those updates must be implemented, which is incorporated herein by reference.

Section 999.145 is amended as follows:

- Language was amended from "staff" to "representative."

Section 999.146 is amended as follows:

- Auditable events, incidents, and reporting requirements not feasible to audit were removed.

Section 999.165 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.166 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.168 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.171 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.172 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.173 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.174 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.176 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.178 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.179 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.190 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

- Form # ERDS 0002 title was changed from Application for DOJ Computer Security Auditor Approval to Application for Computer Security Auditor Approval, which is incorporated herein by reference.
- Form # 0004 title was changed from Attachment to ERDS 0002 Computer Security Auditor Significant Experience Reference(s) to Reference(s) for ERDS Computer Security Auditor, which is incorporated herein by reference.
- The minimum requirements to become an Approved Computer Security Auditor have been amended.

Section 999.192 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.
- Form # ERDS 0002 title was changed from Application for DOJ Computer Security Auditor Approval to Application for Computer Security Auditor Approval, which is incorporated herein by reference.

Section 999.193 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.
- Form # ERDS 0002 title was changed from Application for DOJ Computer Security Auditor Approval to Application for Computer Security Auditor Approval, which is incorporated herein by reference.

Section 999.195 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.
- Form # ERDS 0002 title was changed from Application for DOJ Computer Security Auditor Approval to Application for Computer Security Auditor Approval, which is incorporated herein by reference.
- Form # 0004 title was changed from Attachment to ERDS 0002 Computer Security Auditor Significant Experience Reference(s) to Reference(s) for ERDS Computer Security Auditor, which is incorporated herein by reference.
- The minimum requirements to become an Approved Computer Security Auditor have been amended.

Section 999.203 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.204 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOD's reorganization, which are incorporated herein by reference.

Section 999.206 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOD's reorganization, which are incorporated herein by reference.

Section 999.207 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.209 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.210 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.211 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.217 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.
- The timeframe for local inspections of sub-counties was changed due to the fact that lead counties are inspected every two years and have control over the ERDS.
- Language was amended from staff to representative.

Section 999.219 is amended as follows:

- The timeframe for local inspections of sub-counties was changed due to the fact that the lead counties are inspected every two years and have control over the ERDS.
- The inspections were also amended to include hardware, software, workstations, and network devices comprising the ERDS, including those located at the office of an Authorized Submitter and/or their agents; this allows the DOJ inspections to be all inclusive.
- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

- Turnaround time for the inspection letters to be mailed to the county recorder increased from 10 days to 30 days, due to follow-up items.

Section 999.220 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.221 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Section 999.223 is amended as follows:

- The ERDS forms were amended to accurately reflect changes due to the DOJ's reorganization, which are incorporated herein by reference.

Disclosures of Proposed Action:

The DOJ Has Made the Following Initial Determinations:

Mandate on local agencies and school districts: None.

Cost or saving to any state agency: None.

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

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

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

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

Significant effect on housing cost: None.

Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses with other states: None. The DOJ believes there is no adverse economic impact directly affecting businesses within California or out of state; this program is on a voluntary basis.

Results of the economic impact analysis:

Elimination of jobs/businesses, creation of jobs/businesses, or expansion of jobs/businesses: This rulemaking will assist the County Recorders within California, in lieu of a written paper, in accepting for recording a digitized image of a recordable instrument, subject to specified conditions. This regulatory action will not eliminate, create or cause expansion to any businesses in California or out of state.

Benefits of the Proposed Regulation:

This rulemaking will assist the County Recorders within California, in lieu of a written paper, in accepting for recording a digitized image of a recordable instrument, subject to specified conditions. For additional

benefits, please see page 3 under "Anticipated Benefits of the Proposed Regulation."

Small Business Reporting requirement: The Department has determined that the proposed amendments will not affect small businesses due to the program being voluntary.

Consideration of Alternatives:

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

Availability of Statements:

The DOJ has prepared an Initial Statement of Reasons for the proposed amendments to existing regulations and a listing of the exact regulations being proposed.

Copies of the exact language of the Initial Statement of Reasons and of the Text of the Proposed Amendments to existing regulations, and any other information may be obtained from the DOJ contact person(s) shown in the notice. Copies of the exact language of the Initial Statement of Reasons and of the Text of the Proposed Amendments to existing regulations may also be obtained through the Office of the Attorney General's website at: <http://oag.ca.gov/erds>.

With the exception of any non-substantive technical or grammatical changes, the full text of any amended proposal will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period and all persons who request notification.

Availability of Changed or Amended Text:

After the DOJ analyzes all timely and relevant comments received during the comment period, the DOJ will either adopt the amendments to the existing regulations as described in the notice, or make modifications based on the comments. If the DOJ makes modifications which are sufficiently related to the original text of the proposed amendments to existing regulations, the amended text, with the changes clearly indicated, will be made available to the public for at least 15 days before the DOJ adopts the revised amendments to the existing regulations. The DOJ will accept written com-

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

Availability of Final Statement of Reasons:

Once the Final Statement of Reasons has been prepared, it will be made available through the contact person(s) shown in this notice and the Office of the Attorney General’s website at: <http://oag.ca.gov/erds>.

Incorporated by Reference Documents:

ERDS Forms

- ERDS 0001A: Application for System Certification (Rev. 05/2011)
- ERDS 0001B: Application for Sub-County System Certification (Rev. 05/2011)
- ERDS 0002: Application for Computer Security Auditor Approval (Rev. 05/2011)
- ERDS 0003: Application for Vendor of ERDS Software Certification (Rev. 05/2011)
- ERDS 0004: Reference(s) for ERDS Computer Security Auditor (Rev. 05/2011)
- ERDS 0006: Request for Replacement of Certificate and/or Documents (Rev. 05/2011)
- ERDS 0007: FAX Transmission Cover Sheet (Rev. 05/2011)
- ERDS 0008: Change of ERDS Role (Rev. 05/2011)
- ERDS 0009: Reference(s) for Vendor of ERDS Software Certification (Rev. 05/2011)
- ERDS 0010: Application for Withdrawal (Rev. 05/2011)
- ERDS 0011: Statement of Understanding (Rev. 05/2011)
- ERDS 0012: Acknowledgment of Responsibilities (Rev. 05/2011)
- ERDS 0013: Request for Approval of Substantive Modification(s) (Rev. 05/2011)

Publications

- California County Information Services Directors Association “Best Practices” (Pub. 03/2002)
- FIPS PUB 140-2: Security Requirements for Cryptographic Modules (Rev. 12/02)
- FIPS PUB 180-3: Secure Hash Standard (Pub. 10/08)
- FIPS PUB 197: Advanced Encryption Standard (AES) (Pub. 11/01)
- FIPS PUB 198-1: The Keyed-Hash Message Authentication Code (HMAC) (Pub. 07/08)

- NISTSP 800-63-1: Electronic Authentication Guideline (Pub. 12/11)
- NISTSP 800-70: National Checklists Program for IT Products-Guidelines for Checklist Users and Developers (Pub. 02/11)
- NISTSP 800-88: Guidelines for Media Sanitization (Pub. 09/06)

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 17, California Code of Regulations
SUBJECT: Syringe Exchange Program (SEP) Certification, DPH-11-021

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct written public proceedings during which time any interested person or such person’s duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

HEARING

A public hearing regarding this proposal is scheduled for March 22, 2013 from 2:00 p.m. to 4:00 p.m., in Training Room C at 1500 Capitol Avenue, Sacramento, CA.

For individuals with disabilities, the Department can provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of written public hearing materials into Braille, large print, audiocassette, or computer disk, if requested in advance. Note: the range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

To request such services or copies of materials in an alternate format, please write to Laurel Prior, Office of Regulations, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, or call (916) 440-7673, or use the California Relay Service by dialing 711.

WRITTEN COMMENT PERIOD

Written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on March 18, 2013, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely.

Written comments may be submitted as follows:

1. By email to: regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier: “DPH–11–021” in the subject line to facilitate timely identification and review of the comment; or
2. By fax: (916) 440–5747; or
3. By mail to: Office of Regulations, California Department of Public Health, MS 0507, P.O. Box 997377, Sacramento, CA 95899–7377; or hand–delivered to: 1616 Capitol Avenue, Sacramento, CA 95814. It is requested but not required that written comments sent by mail or hand–delivered be submitted in triplicate.

All comments, including email or fax transmissions, should include the author’s name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

AUTHORITY AND REFERENCE

The Department is proposing to adopt the regulations sections identified under the authority provided in sections 121349, 131000, 131005, 131019, 131050, 131051, 131052, and 131200, of the Health and Safety Code. This proposal implements, interprets, or makes specific sections 4150, 4145, 4170, Business and Professions Code; and 11364, 118286, 121285, 121349, 121349.1, 121349.2, 121349.3, 131019, and 131071, of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Legislature has found and declared that scientific data from syringe exchange programs (SEPs) have shown that SEPs can curtail the spread of HIV infection among injection drug users, that they do not increase drug use in the population and that SEPs can serve as an important bridge to treatment and recovery from substance use disorders. To act upon these findings, the Legislature passed and Governor Edmund G. Brown, Jr., signed into law Assembly Bill (AB) 604 (Skinner, Chapter 744, Statutes of 2011). AB 604 permits the California Department of Public Health, Centers for Infectious Diseases, Office of AIDS (Department) to establish a process through which qualified entities may apply directly to the Department for authorization to provide syringe exchange services, a process which the Department will term SEP “certification.”

Prior to passage of AB 604, only local governments had the legal standing to authorize SEPs. In his signing message for AB 604, Governor Edmund G. Brown, Jr., directed the Department to develop regulations to clarify the application process and criteria.

The Department proposes to adopt Subchapter 15, Sections 7000 through 7016 to California Code of Regulations, Title 17, Division 1, Chapter 4 to implement AB 604. California Health and Safety (H&S) Code Section 131200 authorizes the Department to adopt and enforce regulations for the execution of its duties. Per H&S Code Section 131019, the Office of AIDS is the lead agency within the state responsible for coordinating HIV/AIDS–related programs. H&S Code Section 121349 gives the Department the authority to authorize SEPs.

POLICY STATEMENT OVERVIEW AND EFFECT OF PROPOSED RULEMAKING

In California, access to nonprescription sterile syringes through SEPs is concentrated in Northern California and Los Angeles County. Many California local health jurisdictions that have a high burden of HIV/AIDS have few or no providers of sterile syringes without a prescription. AB 604 permits, until January 1, 2019, the Department to authorize qualified applicants to provide syringe exchange services in locations where the Department determines that the conditions exist for rapid spread of HIV, viral hepatitis, or other bloodborne diseases.

The objectives of this proposed regulatory action are to:

- Implement AB 604 and achieve the goals set by H&S Code Section 121349 to reduce the spread of HIV, viral hepatitis, and other bloodborne diseases.
- Specify the application procedures for Department SEP certification.
- Provide quality assurance standards for State–certified SEPs.
- Protect the confidentiality of clients who participate in syringe exchange services.
- Protect the health and safety of SEP staff, volunteers, and clients.
- Protect environmental health by keeping used needles and syringes, known as sharps waste, out of the environment.

The anticipated benefits from this proposed regulatory action are:

- Protection of public health where conditions exist for the rapid spread of HIV, viral hepatitis, or other bloodborne pathogens.

- Protection of environmental health through support of proper disposal of sharps waste.
- Reduction in the disparity between areas of California where local government has moved to increase access to sterile syringes and those, such as the Central Valley, that have high rates of injection drug use and currently have little or no legal access to sterile syringes without a prescription.
- Saving California funds that would otherwise be allocated to medical and social service costs to care for those infected by HIV and viral hepatitis through the sharing of contaminated syringes.

SUMMARY OF PROPOSAL

The purpose of these proposed regulations is to implement AB 604. The standards in these proposed regulations are limited to department-certified SEPs. Local governments have the continued authority to authorize SEPs and set local standards as appropriate. The Department proposes adoption of Sections 7000, 7002, 7004, 7006, 7008, 7010, 7012, 7014 and 7016.

EVALUATION AS TO WHETHER THE PROPOSED REGULATIONS ARE INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS

The Department has determined that this proposal, if adopted, would not be inconsistent or incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE

N/A

MANDATED BY FEDERAL LAW OR REGULATIONS

N/A

OTHER STATUTORY REQUIREMENTS

N/A

LOCAL MANDATE

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

FISCAL IMPACT ESTIMATE

- A. **FISCAL IMPACT ON LOCAL GOVERNMENT:** None.
- B. **FISCAL IMPACT ON STATE GOVERNMENT:** Administrative costs are estimated at \$69,000 from State General Fund monies in the current State fiscal year.
- C. **FISCAL IMPACTS ON FEDERAL FUNDING OF STATE PROGRAMS:** None.
- D. **FISCAL IMPACT ON PRIVATE PERSONS OR BUSINESSES DIRECTLY AFFECTED:** The Department estimates that approximately ten businesses will be impacted over the life of the legislation. These regulations are not a mandate and only provide the opportunity for small businesses and non-profit organizations to apply for Department certification to add syringe exchange services to their existing services. Entities that are certified by the Department to provide these services will assume all associated costs.
Associated costs include the cost of operating an SEP, estimated at \$230,000 per year and initial costs to apply to the Department for certification, estimated at \$610.
It is estimated that there will be no costs for individuals.
- E. **OTHER NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:** None.

HOUSING COSTS

The Department has determined that the regulations will have no impact on housing costs.

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

The Department has determined that the proposed regulatory action would have no significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. Thus, there will be no significant adverse economic impact on California businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS

The Department has determined that the regulation would not significantly affect the following:

1. **The creation or elimination of jobs within the state of California.** The proposal may result in the creation of jobs but its extent cannot be estimated.
2. **The creation of new businesses or the elimination of existing businesses within the state of California.** The proposal is unlikely to result in the creation of new businesses, although it may result in the creation of new initiatives by existing businesses. The proposal should not result in the elimination of existing businesses.
3. **The expansion of businesses currently doing business within the state of California.** The proposal may result in the expansion of businesses currently doing business with the State of California but its extent cannot be estimated.
4. **The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.** This proposal increases the benefits to the health and welfare of California residents because it reduces the spread of bloodborne pathogens and the costs and suffering associated with HIV and viral hepatitis infection. This proposal further increases the benefits to the health and welfare of California residents and worker safety because it ensures that State-certified SEPs follow procedures to reduce the risk of needle-stick injury, to appropriately address needle-stick injury if it occurs, and reduce the risk of community-acquired needle-stick injury by educating SEP participants about proper syringe disposal. This proposal may also contribute to improvement of the state's environment by contributing to efforts to prevent used sharps waste from entering the waste stream, and from being discarded improperly in public environments.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The Department estimates that approximately ten businesses will be impacted over the life of the legislation. These regulations are not a mandate and only provide the opportunity for small businesses and non-profit organizations to apply for Department certification to add syringe exchange services to their existing services. Entities that are certified by the Department to provide these services will assume all associated costs. Associated costs include the cost of operating an SEP, estimated at \$230,000 per year, and initial costs to apply to the Department for certification, estimated at \$610. It is estimated that there will be no costs for individuals.

BUSINESS REPORT

The regulation establishes a reporting requirement that applies to businesses that request SEP certification from the state. The Department has determined that it is necessary for the health, safety, or welfare of the people of the state that the regulations apply to businesses.

SMALL BUSINESS

The Department has determined that there would be an effect on small businesses that choose to apply for SEP certification, because they will be legally required to comply with the regulation and may incur costs associated with compliance. These costs should not be unduly burdensome, given that similar costs would be incurred by small businesses that choose to be authorized by local governments, because most SEPs collect and report this same data, reporting either to their funders or to the local city or county government body, which authorized the program.

ALTERNATIVES STATEMENT

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

CONTACT PERSON

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Alessandra Ross (916) 449-5796 or Maria Islas-Sevilla in the Office of AIDS, CDPH at (916) 449-5790.

Any inquiries concerning the action described in this regulatory Notice of Proposed Rulemaking may be directed to Laurel Prior, Office of Regulations, at (916) 440-7673.

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-11-021.

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

The Department has prepared and has available for public review an initial statement of reasons for the

proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, 1616 Capitol Avenue, Sacramento, CA 95814, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file).

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (916) 440-7673 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation, which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

AVAILABILITY OF FINAL STATEMENT OF REASONS

A copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 22, California Code of Regulations
SUBJECT: DPH-09-014, Long Term 1 and 2
Enhanced Surface Water Treatment Rules

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct written public proceed-

ings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

PUBLIC HEARING

No public hearing has been scheduled; however, any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8. For individuals with disabilities, should a public hearing be scheduled, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of written public hearing materials into Braille, large print, or on audiocassette or computer disk. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

To request such services or copies of materials in an alternate format, please write to Linda M. Cortez, Office of Regulations, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, or call (916) 440-7807, or use the California Relay Service by dialing 711.

WRITTEN COMMENT PERIOD

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on March 18, 2013, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: regulations@cdph.ca.gov. It is requested that email transmission of comments contain the regulation package identifier "DPH-09-014" in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission: (916) 440-5747;
3. By mail to: Office of Regulations, California Department of Public Health, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377; or
4. Hand-delivered to: 1616 Capitol Avenue, Sacramento, CA 95814.

Any inquiries or written comments should contain the regulation package identifier, DPH-09-014.

It is requested but not required that written comments sent by mail or hand-delivered be submitted in tripli-

cate. All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

CONTACT INFORMATION

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to:

Mike McKibben
Center for Environmental Health
California Department of Public Health
1350 Front Street, Room 2050,
San Diego, CA 92101
(619) 525-4023

Inquiries regarding the regulatory process described in this notice may be directed to:

Linda M. Cortez, Regulations Coordinator
Office of Regulations
California Department of Public Health
P.O. Box 997377, MS 0507,
Sacramento, CA 95899-7377
(916) 440-7807

Or to the designated back-up contact:

Alana McKinzie, Staff Services Manager II
Office of Regulations
California Department of Public Health
P.O. Box 997377, MS 0507,
Sacramento, CA 95899-7377
(916) 440-7689

INFORMATIVE DIGEST/POLICY STATEMENT
 OVERVIEW

All suppliers of domestic water to the public are subject to regulations adopted by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act of 1974, as amended (42 U.S.C. § 300f et seq.), as well as by the California Department of Public Health (Department) under the California Safe Drinking Water Act (Health & Sat. Code, div. 104, pt. 12, ch. 4, § 116270 et seq.).

On December 16, 1998, the U.S. EPA promulgated the Interim Enhanced Surface Water Treatment Rule (IESWTR) (63 Fed. Reg. 69478; amended Jan. 16, 2001, 66 Fed. Reg. 3770), as required by the Safe Drinking Water Act Amendments of 1996 (SDWAA). The federal IESWTR builds on the federal Surface Water Treatment Rule (SWTR) by providing increased

public protection against microbial pathogens, specifically the protozoan *Cryptosporidium*. The federal IESWTR applies to PWS using surface water or groundwater under the direct influence of surface water (GWUDI) and serving 10,000 or more persons.

On January 12, 2008, the Department's regulations concerning the IESWTR (DPH-01-020) became effective. The state IESWTR contains the federal IESWTR requirements, changes to the federal IESWTR requirements, and changes to existing state SWTR regulations. Changes to the federal IESWTR requirements that were made in the state IESWTR are not extended to the smaller systems in the current proposed rulemaking, except that smaller systems using conventional or direct filtration treatment and using a continuous monitoring program on the combined filter effluent (CFE) for turbidity would (1) comply with comparable state IESWTR CFE turbidity performance standards and (2) be allowed to use an alternative reporting method (i.e., percentile reporting).

On January 14, 2002, the U.S. EPA promulgated the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) (67 Fed. Reg. 1812; amended June 29, 2004, 69 Fed. Reg. 38850), as required by the SDWAA. The federal LT1ESWTR is a counterpart to the federal IESWTR and applies to PWS using surface water or GWUDI and serving fewer than 10,000 persons. The current proposed rulemaking will adopt the federal LT1ESWTR requirements and reorganize existing state regulations to improve readability and facilitate compliance efforts.

On January 5, 2006, the U.S. EPA promulgated the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) (71 Fed. Reg. 654; amended Feb. 6, 2006, 71 Fed. Reg. 6136), as required by the SDWAA. The LT2ESWTR improves public health protection through control of microbial contaminants by focusing on systems with elevated *Cryptosporidium* risk and by preventing significant increases in microbial risk that might otherwise occur when systems implement the federal Stage 2 Disinfectants and Disinfection Byproducts Rule (S2DDBPR) adopted under a separate rulemaking (DPH-09-004). The federal LT2ESWTR applies to PWS using surface water or GWUDI. The federal LT2ESWTR builds on the federal IESWTR and federal LT1ESWTR by requiring (1) source water monitoring for *Cryptosporidium*, (2) additional *Cryptosporidium* treatment technique provisions for certain filtered systems based on source water *Cryptosporidium* concentrations, (3) inactivation of *Cryptosporidium* for all unfiltered systems, (4) disinfection profiling and benchmarking to ensure continued levels of microbial protection while PWS take the necessary steps to comply with the federal S2DDBR, and (5) covering uncovered finished water storage facilities or treating the dis-

charge from the storage facility. The current proposed rulemaking will incorporate by reference the federal LT2ESWTR requirements.

On June 29, 2009, the U.S. EPA promulgated Minor Correction to Stage 2 Disinfectants and Disinfection Byproducts Rule and Changes in References to Analytical Methods (74 Fed. Reg. 30953), U.S. EPA made a minor correction to the federal S2DDBPR and minor, unrelated, editorial changes in references to analytical methods in regulations. The current proposed rulemaking will incorporate by reference the changes in references to analytical methods that relate to surface water treatment under title 22, chapter 17. The Department adopted the minor correction to the federal S2DDBPR and changes in reference to analytical methods that relate to title 22, chapter 15.5 under a separate rulemaking (DPH-09-004).

In 2003, California Assembly Bill (AB) 1757 was chaptered, which repealed the Permit Reform Act (PRA) of 1981, which consisted of sections 15374-15378 of the Government Code. The PRA of 1981 required the Department to adopt regulations that include procedures for considering and issuing permits, most notably including (1) setting of time from receipt of permit application to notification by the Department that the application was complete, (2) setting of time from completion of an application for the Department to make a decision on the permit, and (3) listing of minimum, median, and maximum processing times for permits. With the PRA requirements no longer in place, the current proposed rulemaking will repeal regulations adopted in conformance with the PRA of 1981.

Safe Drinking Water State Revolving Fund Law establishes the Safe Drinking Water State Revolving Fund (SDWSRF) and appropriates money in the fund to the Department to finance the design and construction of projects for PWS that will enable the PWS to meet drinking water standards. In 2011, California AB 983 was chaptered, which authorized the Department to take specified actions to improve access to financial assistance for small community water systems and not-for-profit nontransient noncommunity water systems serving severely disadvantaged communities, as defined. In addition and also in 2011, California AB 1292 was chaptered, which authorized the Department to utilize revenue bonds to leverage the fund.

Problem Statement: California has been granted primary enforcement responsibility (“primacy”) by U.S. EPA for public water systems (PWS) in California. California has no authority to enforce federal regulations, only state regulations. Federal law and regulations require that California, in order to receive and maintain primacy, promulgate regulations that are no less stringent than the federal regulations. The primary

purpose of the proposed regulations is to further protect public health, while maintaining primacy, through the adoption of provisions no less stringent than the federal Long Term 1 and Long Term 2 Enhanced Surface Water Treatment Rules.

Objectives: Broad objectives of this proposed regulatory action are to:

- Provide the public with increased protection against microbial pathogens in drinking water served by PWS.
- Maintain primacy through the adoption of drinking water regulations no less stringent than those promulgated by U.S. EPA, while providing the California Department of Public Health with a means to enforce such regulations.
- Update state regulations as a result of legislative statutory revisions.

Benefits: Anticipated benefits from this proposed regulatory action are:

- Filtered PWS using an approved surface water source and serving fewer than 10,000 persons would be required to:
 - provide at least 99 percent removal of *Cryptosporidium*.
 - If using conventional or direct filtration treatment:
 - comply with more stringent combined filtered effluent turbidity performance standards.
 - comply with individual filter effluent turbidity monitoring and calibration requirements, performance triggers, and follow-up actions.
- PWS using an approved surface water source, using conventional or direct filtration treatment, and serving fewer than 10,000 persons would be:
 - if using a continuous monitoring program on the CFE for turbidity:
 - required to comply with comparable state IESWTR CFE turbidity performance standards.
 - required to calibrate turbidimeters according to the procedure specified by the manufacturer.
 - allowed to use an alternative reporting method (i.e., percentile reporting).
 - required to report the time of occurrence for any turbidity measurement that exceeds 1.0 NTU.
- Unfiltered PWS using an approved surface water source and serving fewer than 10,000 persons would be required to update their watershed

control programs to minimize the potential for contamination by *Cryptosporidium* oocysts.

- PWS using an approved surface water source, serving fewer than 10,000 persons, and that began construction of a finished water reservoir on or after March 15, 2002, would be required to cover the reservoir.
- Community and nontransient noncommunity water systems using an approved surface water source and serving fewer than 10,000 persons would be required to:
 - conduct disinfection profiling and benchmarking.
 - consult with the Department for a significant change in disinfection practices via the amended permit process.
- PWS using an approved surface water source that did not conduct optional Total Trihalomethanes (TTHM) and Haloacetic Acids (Five) (HAA5) compliance monitoring under 40 CFR part 141.172 because they served fewer than 10,000 persons when such monitoring was required, but more than 10,000 persons prior to January 1, 2005, would be required to:
 - consult with the Department to establish a disinfection benchmark.
 - consult with the Department for a significant change in disinfection practices via the amended permit process.
 - retain the disinfection profile.
- PWS using an approved surface water source, serving fewer than 10,000 persons, and seeking approval for filtration rates greater than twice those specified in sections 64660(b)(1)–(b)(3) would be required to demonstrate that the filters can provide 99 percent *Cryptosporidium* removal.
- PWS using an approved source, diatomaceous earth filtration or slow sand filtration, and continuous turbidity monitoring would be required to calibrate turbidimeters according to the procedure specified by the manufacturer.
- PWS using an approved surface water would be required to:
 - conduct source water monitoring for *Cryptosporidium*, *E. coli*, and turbidity, as applicable.
 - for filtered systems, may need to provide additional *Cryptosporidium* treatment based on their bin classification using treatment options from the microbial toolbox (the variety of treatment and control options,

collectively termed the “microbial toolbox” by U.S. EPA).

- for unfiltered systems, provide additional *Cryptosporidium* treatment using treatment options from the inactivation toolbox.
- conduct disinfection profiling and benchmarking.
- for systems with an uncovered finished water storage facility, cover the storage facility or treat the discharge from the storage facility.
- respond to significant deficiencies identified in sanitary survey reports.
- conduct public notification and issue special notice for violations.
- submit monthly and supplemental reports and maintain records.
- PWS using an approved surface water source would be required to submit monthly and supplemental reports and maintain records.
- PWS using an approved source and diatomaceous earth filtration, slow sand filtration, or an alternative filtration technology would be required to:
 - report the total number of turbidity measurements for the month.
 - report the time of occurrence for any turbidity measurement that exceeds the performance standard for the treatment technology.
- PWS would be allowed to use U.S. EPA approved alternative test methods for analysis of chapter 17 contaminants.
- The Department would no longer be required to regulate its activities when considering an application for filtration avoidance.

None of the proposed amendments would affect California’s primacy status because the net effect of these amendments is that the state’s regulation would be at least as stringent as the federal regulation.

Evaluation as to whether the proposed regulations are inconsistent or incompatible with existing state regulations: The Department evaluated this proposal and determined that, if adopted, it will not be inconsistent or incompatible with existing state regulations. This evaluation included a review of the Department’s existing general regulations and those regulations specific to the implementation of the California Safe Drinking Water Act and the Safe Drinking Water State Revolving Fund Law of 1997. An Internet search of other state agency regulations determined that no other state regulation addresses the same subject matter.

AUTHORITY AND REFERENCE CITATIONS

The Department is proposing to adopt, amend, or repeal the regulation sections identified under the authority provided in sections 116350, 116375, 131052, and 131200, of the Health and Safety Code. This proposal implements, interprets and makes specific sections 116275, 116350, 116365, 116375, 116385, 116525, 116530, 116540, 116550, 116760.20(j), 116761, 116761.23, 116761.50, of the Health and Safety Code.

For consistency with the legislative actions, federal regulations, and to provide further clarification, the Department proposes the following revisions to title 22:

Chapter 12, Article 2

- Amend section 63011 to clarify that water rate studies and environmental review (and documentation) can be funded; to clarify that all engineering costs, not just preliminary costs, can be funded; to provide that funds must be for purposes consistent with law; to eliminate the prohibition against the funding of detailed design costs; to allow limited construction associated with pilot testing or test hole or test well activities, since such tests are appropriately included in a planning project; to extend the maximum time allowed for planning to 36 months, which will provide the funding recipient with increased time, when appropriate, to complete more complex planning activities such as final engineering plans and specifications or pilot testing of proposed treatment options; and to delineate the procurement procedures an applicant for a grant for planning funding must follow when contracting for architectural, landscape architectural, professional engineering, environmental, land surveying, and project management services.
- Amend section 63012 to allow interest-bearing SDWSRF loans up to the full cost of a project.

Chapter 12, Article 3

- Amend section 63020 for clarity and for consistency with AB 983, which added a definition of “severely disadvantaged community” to section 116760.20 of the Health and Safety Code and provided that community and noncommunity nontransient water systems, which are owned by a public agency or a not-for-profit water company and that serve severely disadvantage communities, are eligible for a grant of up to 100% of the project cost if certain conditions are met.
- Amend section 63021 to clarify that funding is awarded to a public water system, rather than a community; and for consistency with AB 983,

allow eligible public water systems whose service area is a severely disadvantaged community to be eligible for a grant of up to 100% of the total project cost. The changes to section 63021 allow such eligible systems to receive grant funding of up to 100 percent of a project cost without an affordability review.

Chapter 12, Article 6

- Amend section 63052 to delineate the procurement procedures an applicant for a grant for construction funding must follow when contracting for architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services.

The Department also proposes a number of nonsubstantive changes which will correct grammar, punctuation, spelling, and use of plurals and units of expression; redesignate subsections; subdivide existing subsections into more than one subsection; update reference to subsections, paragraphs, and tables; and delete reference to repealed article and sections.

Chapter 17, Article 1

- Amend section 64650 (General Requirements) to establish a treatment technique requirement for *Cryptosporidium* in conformance with the federal LT1ESWTR by eliminating the population restriction; incorporate by reference the federal LT2ESWTR (excluding definitions, which are being adopted individually and excluding two-stage lime softening requirements, as there are no such facilities in California), correction to the federal LT2ESWTR, and changes in references to analytical methods that relate to chapter 17; for clarity, replace certain sections and phrases referenced in the federal LT2ESWTR with the corresponding sections and chapter from the state Public Notification, state SWTR, and state S2DDBPR; conform to the repeal of the PRA of 1981; and delete obsolete language.
- Adopt sections 64651.12 (Bag Filters), 64651.13 (Bank Filtration), 64651.15 (Cartridge Filters), 64651.48 (Flowing Stream), 64651.52 (Lake/Reservoir), 64651.54 (Membrane Filtration), 64651.61 (Plant Intake), and 64651.62 (Presedimentation) to add necessary definitions per federal requirements.
- Amend section 64651.88 (Uncovered Finished Water Storage Facility) to conform to the federal LT2ESWTR definition.

Chapter 17, Article 2

- Amend Article 2 (Treatment Technique Requirements, Watershed Protection Requirements, and Performance Standards) to provide a title that is more descriptive and appropriate for the article.
- Amend section 64652 (Treatment Technique Requirements and Compliance Options) to provide a title that is more descriptive and appropriate for the section; clarify between what two points the reduction of *Giardia lamblia* and viruses is to occur; incorporate the requirements of article 3.5, section 64657, to improve readability and facilitate compliance efforts; establish treatment technique requirements in conformance with the federal LT1ESWTR by eliminating the population restriction contained in article 3.5, section 64657(a); clarify that uncovered finished water storage facility requirements, a recycled water provision, and disinfection profiling and benchmarking are treatment technique requirements; clarify where federal LT2ESWTR treatment technique requirements are incorporated by reference in chapter 17; and delete obsolete language.
- Amend section 64652.5 (Criteria for Avoiding Filtration) to incorporate the requirements of article 3.5, section 64657.10, to improve readability and facilitate compliance efforts; establish filtration avoidance criteria in conformance with the federal LT1ESWTR by eliminating the population restriction; and to clarify that the filtration avoidance requirements of the federal SWTR are incorporated by reference for (1) disinfection inactivation treatment and (2) source water quality and disinfection information reporting.
- Amend section 63653 (Filtration) to incorporate the requirements of article 3.5, section 64657.30, and reorganize existing state regulations to improve readability and facilitate compliance efforts; establish filtration requirements in conformance with the federal LT1ESWTR; for a system using conventional or direct filtration treatment, serving fewer than 10,000 persons, and using a continuous monitoring program on the CFE for turbidity, establish filtration requirements that are comparable to the state IESWTR CFE turbidity performance standards (use of the phrase “shall not exceed 1 NTU” would inadvertently hold a smaller system using continuous monitoring to a more stringent performance standard than intended); clarify where the CFE turbidity performance standard applies for a

treatment plant with one filter; and clarify how turbidity performance standards for an alternative filtration technology are established.

Chapter 17, Article 3

- Adopt section 64654.8 (Source, Raw, Settled, and Recycled Filter Backwash Water Monitoring) to clarify where federal LT2ESWTR source monitoring requirements are incorporated by reference in chapter 17; reorganize existing state regulations to improve readability and facilitate compliance efforts (requirements previously located in section 64655 are moved to section 64654.8); and require turbidity monitoring of the raw water supply pursuant to the operation plan — the intent is to address all sources that make up the raw water supply, while providing suppliers with needed flexibility for individual situations due to (1) complexity in the number of sources, periodic changes (e.g., seasonal operation, water allocations, or operational issues), and conveyance facilities (e.g., comingling of one or more sources prior to delivery to the surface water treatment plant) and (2) availability of grab and continuous turbidity monitoring equipment.
- Amend section 64655 (Filtration Monitoring) to provide a title that is more descriptive and appropriate for the section; incorporate the requirements of article 3.5, section 64657.40, and reorganize existing state regulations to improve readability and facilitate compliance efforts; establish filtered water turbidity monitoring requirements in conformance with the federal LT1ESWTR; and clarify frequency of recording for monitoring conducted pursuant to table 64655, footnote (a).
- Amend section 64656 (Disinfection Monitoring) to provide a title that is more descriptive and appropriate for the section; and to regulate the supplier and not the Department in subsection (d).
- Adopt section 64656.5 (Disinfection Profiling and Benchmarking) to incorporate the requirements of article 3.5, section 64657.20, and reorganize existing state regulations to improve readability and facilitate compliance efforts; establish disinfection profiling and benchmarking requirements in conformance with the federal LT1ESWTR and federal LT2ESWTR; and, for a system conducting disinfection profiling and benchmarking under subsection (b), establish a disinfection profile retention requirement consistent with existing state regulation – profile retention is not addressed in the federal LT1ESWTR.

Chapter 17, Article 3.5

To improve readability and facilitate compliance efforts:

- Repeal section 64657 (General Requirements); requirements are reorganized to section 64652.
- Repeal section 64657.10 (Criteria for Avoiding Filtration); requirements are reorganized to section 64652.5.
- Repeal section 64657.20 (Disinfection Profiling and Benchmarking); requirements are reorganized to article 2, section 64656.5.
- Repeal section 64657.30 (Filtration); requirements are reorganized to section 64653.
- Repeal section 64657.40 (Filtration Sampling); requirements are reorganized to section 64655.
- Repeal section 64657.50 (Supplemental Reporting and Recordkeeping); requirements are reorganized to sections 64660, 64664, and 64664.2.

Chapter 17, Article 5

- Amend section 64660 (Operating Criteria) to establish a *Cryptosporidium* removal requirement for a system serving fewer than 10,000 persons by eliminating the population restriction contained in subsection (b)(5)(C) — the Department considers filters that are operating at more than two times the rates specified in sections 64660(b)(1) through (b)(3) to be alternative filtration technologies, and as such, must meet the requirements shown as amendments to section 64653(e); incorporate some of the requirements of article 3.5, section 64657.50, and reorganize existing state regulations to improve readability and facilitate compliance efforts; and establish filtration requirements in conformance with the federal LT1ESWTR.
- Amend section 64662 (Records) to establish recordkeeping requirements in conformance with the federal LT1ESWTR; and to clarify where federal LT2ESWTR recordkeeping requirements are incorporated by reference in chapter 17.

Chapter 17, Article 6

- Amend section 64663 (Department Notification) to reorganize existing state regulations to improve readability and facilitate compliance efforts; and establish Department notification requirements (1) in conformance with the federal LT1ESWTR

and (2) for a system using conventional or direct filtration treatment, serving fewer than 10,000 persons, and using a continuous monitoring program on the CFE for turbidity, which is not addressed in the federal LT1ESWTR.

- Amend section 64664 (Monthly Report) to incorporate some of the requirements of article 3.5, section 64657.50, and reorganize existing state regulations to improve readability and facilitate compliance efforts; establish monthly reporting requirements in conformance with the federal LT1ESWTR and consistent with existing state regulations; establish additional monthly reporting requirements consistent with existing state regulations for: (1) table 64664–A (2)(D) and table 64664–B (2)(B) — time, to differentiate between multiple exceedances that may occur on the same day and (2) table 64664–A (2)(A) — total number of turbidity measurements, to calculate compliance with the 95th percentile turbidity performance standard; for clarity, add the multiplication symbol “x” to the formula in subsection (c)(2)(F); and clarify where federal LT2ESWTR monthly reporting requirements are incorporated by reference in chapter 17.
- Adopt section 64664.2 (Supplemental Reports) to incorporate remaining requirements of article 3.5, section 64657.50, and reorganize existing state regulations to improve readability and facilitate compliance efforts; establish supplemental reporting requirements in conformance with the federal LT1ESWTR; and clarify where federal LT2ESWTR reporting requirements are incorporated by reference in chapter 17.

Chapter 17, Article 7

- Adopt section 64665.5 (Additional Requirements) to clarify where federal LT2ESWTR sanitary survey requirements are incorporated by reference in chapter 17.

Chapter 17, Article 8

- Amend section 64666 (Customer Notification) to clarify where federal LT2ESWTR public notification and special notice requirements are incorporated by reference in chapter 17.

The following table summarizes the proposed amendments with respect to the federal citations, which are to be incorporated by reference:

State Citation	Federal Citation	Differences
64650(f)(1) & (f)(1)(A)–(f)(1)(M)	2006 FR; 141.211 Appendix A to Subpart Q (Public Notification), 141.700, 141.701, 141.702, 141.703, 141.704, 141.705, 141.706, 141.707, 141.708, 141.709, 141.710, 141.711, 141.712, 141.713, 141.714, 141.715 (except subsection (b)(4)), 141.716, 141.717 (except subsection (b)), 141.718, 141.719, 141.720, 141.721 (except subsection (f)(4)), 141.722, and 141.723	For clarity via (f)(1)(A)–(f)(1)(M), replaced certain sections and phrases referenced in the federal LT2ESWTR with the corresponding sections and chapter from the state Public Notification, state SWTRe, and state S2DDBPR.
64651.52	2006 FR; 141.2	For consistency with existing spelling in Chapter 17, “man made” is spelled “man–made.”
64652(d)	2002 FR; 141.503(a), 141.510 & 141.511	Omitted last sentence in 141.511 as the sentence is redundant.
64653(e)(1)	2002 FR; 141.73(d) & 141.552	Consistent with the Department’s existing language, alternative filtration technologies must demonstrate a minimum of 99% <i>Giardia lamblia</i> cyst removal and 90% virus removal. The balance needed to achieve the required 99.9% <i>Giardia lamblia</i> cysts and 99.99% virus reductions per section 64652(a) must be obtained through disinfection. The Department sets turbidity performance requirements based on alternative filtration technology demonstration studies pursuant to section 64653(h).
64653(e)(2)	2002 FR; 141.551(a)(2) & (b)(2) 2004 FR; 141.551(a)(2) & (b)(2)	Referenced turbidity performance standard limits consistent with existing regulations.

State Citation	Federal Citation	Differences
64655(b)	2002 FR; 141.560(b)	<p>Extended provision to PWS (1) using conventional or direct filtration treatment and serving 10,000 or fewer people and conducting continuous monitoring in lieu of grab sampling on the CFE for turbidity and (2) using diatomaceous earth filtration or slow sand filtration and conducting continuous monitoring in lieu of grab sampling for turbidity.</p> <p>Proper calibration of continuous turbidity monitoring equipment is necessary to ensure accurate turbidity measurements.</p> <p>Under existing regulations, calibration procedures are described in the Operations Plan (section 64661).</p> <p>Extending the provision clarifies that, for Items (1) and (2), the calibration procedures must be done in accordance with the procedure specified by the manufacturer.</p>
64656.5(a)(2)	2002 FR; 141.503(d) 141.540, 141.541 & 141.542	Consistent with existing regulations, consultation with the Department for a significant change in disinfection practice is handled via the amended permit process.
64656.5(b)(2)	2002 FR; 141.170(d)	Consistent with existing regulations, consultation with the Department for a significant change in disinfection practice is handled via the amended permit process.
64656.5(b)(2)(A)	2002 FR; 141.170(d)	Consistent with existing regulations, consultation with the Department for a significant change in disinfection practice is handled via the amended permit process.

State Citation	Federal Citation	Differences
64656.5(b)(2)(B)	2002 FR; 141.170(d)	Consistent with existing regulations, consultation with the Department for a significant change in disinfection practice is handled via the amended permit process.
64664(b), Table 64664–A (2)(D)	2002 FR; 141.570(a)(3)	Consistent with existing regulations, added “time” to differentiate between multiple exceedances that may occur on the same day.
64664(b), Table 64664–B (2)(B)	2002 FR; 141.563(a) & 141.570(b)(2) 2004 FR: 141.570(b)(2)	Consistent with existing regulations, added “time” to differentiate between multiple exceedances that may occur on the same day.

Note: All Federal Register references may also be viewed, at no cost, through the following internet addresses: <http://www.gpoaccess.gov/fr/index.html> and www.gpo.gov/fdsys.

DOCUMENTS INCORPORATED BY REFERENCE

- 1989 FR are to 40 Code of Federal Regulations, part 141 (54 Fed. Reg. 27486 (June 29, 1989)), “Filtration, Disinfection; Turbidity, Giardia lamblia, Viruses, Legionella, and Heterotrophic Bacteria.”
- 1998 FR are to 40 Code of Federal Regulations, part 141 (63 Fed. Reg. 69478 (December 16, 1998)), “Interim Enhanced Surface Water Treatment Rule.”
- 2001 FR are to 40 Code of Federal Regulations, part 141 (66 Fed. Reg. 3770 (January 16, 2001)), “Revisions to the Interim Enhanced Surface Water Treatment Rule (IESWTR), the Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1DBPR), and Revisions to State Primacy Requirements To Implement the Safe Drinking Water Act (SDWA) Amendments.”
- 2002 FR are to 40 Code of Federal Regulations, part 141 (67 Fed. Reg. 1812 (January 14, 2002)), “Long Term 1 Enhanced Surface Water Treatment Rule.”
- 2004 FR are to 40 Code of Federal Regulations part 141 (69 Fed. Reg. 38850 (June 29, 2004)), “Minor Corrections and Clarifications to Drinking Water Regulations.”
- 2006 FR are to 40 Code of Federal Regulations, part 141 (71 Fed. Reg. 654 (January 5, 2006)), “Long Term 2 Enhanced Surface Water Treatment Rule.”
- 2/2006 FR are to 40 Code of Federal Regulations, part 141 (71 Fed. Reg. 6136 (February 6, 2006)), “Long Term 2 Enhanced Surface Water Treatment Rule, Correction.”
- 2009 FR are to 40 Code of Federal Regulations, part 141 (74 Fed. Reg. 30953 (June 29, 2009)), “Minor Correction to Stage 2 Disinfectants and Disinfection Byproducts Rule and Changes in References to Analytical Methods.”

FORMS INCORPORATED BY REFERENCE

N/A

MANDATED BY FEDERAL LAW OR REGULATIONS

N/A

OTHER STATUTORY REQUIREMENTS

N/A

LOCAL MANDATE

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts that require state reimbursement because the proposed regulation implements a federal mandate for which the regulated community must comply, regardless of the adoption of this regulation, or imposes no significant quantifiable costs. As a result, local agencies or school districts should not incur costs resulting from the adoption of this regulation.

Local agencies/school districts currently incur costs in their operation of PWS. These 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 because they apply generally to all individuals and entities that operate PWS in California and do not impose unique requirements on local governments. Therefore, no state reimbursement of these costs is required.

Local regulatory agencies also may incur additional costs for their responsibility to enforce federal regulations related to small PWS (fewer than 200 service connections) that they regulate. However, local agencies are authorized to assess fees to pay reasonable expenses incurred in enforcing statutes and regulations related to small PWS (Health and Safety Code section 101325). Therefore, no reimbursement of any incidental costs to local agencies in enforcing this regulation would be required (Government Code section 17556(d)).

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None.
- B. Fiscal Effect on State Government: None.
- C. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.
- D. Fiscal Effect on Federal Funding of State Programs: None.
- E. Fiscal Impact on Private Persons or Businesses Directly Affected; None. The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

STATEWIDE EFFECT ON HOUSING COSTS

The Department has determined that the regulations will have no impact on housing costs.

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

The Department is promulgating regulations substantially identical to federally mandated regulations. There are no significant differences related to fiscal impact between the proposed LT1ESWTR and LT2ESWTR regulations and the federal LT1ESWTR and LT2ESWTR regulations. Regardless of whether California adopts a regulation that parallels the federal LT1ESWTR and LT2ESWTR regulations, applicable PWS are required to comply with the federal LT1ESWTR and LT2ESWTR and will incur the associated costs. The adoption of the LT1ESWTR and LT2ESWTR portions of this regulation merely provide California’s regulatory agencies with the authority to enforce the regulation, which would otherwise be enforced by the U.S. EPA. Additionally, the portions of the proposed regulation unrelated to the federal LT1ESWTR and LT2ESWTR have no fiscal impact on the regulated community.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The Department has determined that the proposed regulations would not significantly affect the following:

1. The creation or elimination of jobs within the State of California. The requirements should not have any effect in this area in that there would not be any significant change in water system or regulatory personnel needed for compliance with the new requirements.
2. The creation of new businesses or the elimination of existing businesses within the State of California. The nature of the water industry is such that the adoption of this proposed regulation would not result in the creation or elimination of water systems. The impact of the proposed regulations would be insignificant.
3. The expansion of businesses currently doing business within the State of California. Since water system size is basically a function of the number of service connections (consumers) served, the proposed regulations should not have any effect on expansion.
4. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment. The Department has made a determination that the proposed regulations would improve the protection of the public’s health and welfare through the control of microbial contaminants and their associated risks

in the public's drinking water supply, with no adverse impacts to worker safety or California's environment.

REPORTING REQUIREMENT

The Department has determined that the proposed regulations require reports from businesses, and it is necessary for the health, safety, or welfare of the people of California that the proposed regulations apply to businesses.

STATEWIDE EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would not affect small business because Government Code chapter 3.5, article 2, section 11342.610 excludes drinking water utilities from the definition of small business.

CONSIDERATION OF ALTERNATIVES

The Department has determined that no alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the 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.

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

The Department has prepared and has available for public review the text of the proposed regulations, the initial statement of reasons for the proposed regulations, and all the information upon which the proposed regulations are based. The Department's Office of Regulations, 1616 Capitol Avenue, Sacramento, CA 95814, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file).

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (916) 440-7807 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, send a fax to 916-440-5747, or write to the Office of Regulations at the address previously noted. Upon specific request, these documents

will be made available in Braille, large print, or on audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

AVAILABILITY OF FINAL STATEMENT OF REASONS

A copy of the final statement of reasons (when prepared) will be available upon request from the Department's Office of Regulations.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Materials regarding the action described in this notice (including this public notice, the proposed regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA ENDANGERED SPECIES ACT CONSISTENCY DETERMINATION NO. 2080-2012-018-01

Project: Fruit Growers Habitat Conservation Plan

Location: Siskiyou County, California

Applicant: Fruit Growers Supply Company

Background

Fruit Growers Supply Company (FGSC) proposes to implement a fifty-year Habitat Conservation Plan (HCP) (Project) that will enable the company to carry out forest management activities including timber operations on three management units: Klamath River (64,867 acres), Scott Valley (38,814 acres), and Grass

Lake (48,482), respectively, for a total of 152,163 acres of commercial timberland in Siskiyou County, California. FGSC's Klamath River and Scott Valley management units are located west of Interstate 5, adjacent to and intermixed with Klamath National Forest (KNF) lands. The Grass Lake management unit (also adjacent to the KNF) lies east of Interstate 5 and predominantly north of State Highway 97.

Activities proposed under FGSC's HCP include timber operations and related management activities that include, but are not limited to: felling and bucking timber, yarding timber, loading and other landing operations, salvaging timber products, transporting timber and rock products, road construction and maintenance, rock pit construction and use, water drafting for dust abatement and fire suppression, equipment maintenance, regeneration harvest, site preparation, prescribed burning, slash treatment, planting, pre-commercial thinning and pruning, commercial thinning, and the collection and transport of minor forest products such as buds, stumps, boughs, and Christmas trees.

The Project activities described above are expected to incidentally take¹ coho salmon (*Oncorhynchus kisutch*) of the Southern Oregon/Northern California Coast (SONCC) Evolutionarily Significant Unit. In particular, SONCC coho salmon eggs, fry, and/or adults could be incidentally taken as a result of the Project activities that cause direct or indirect mortality from the operation of equipment within streams, discharge of considerable amounts of sediment to coho habitat, substantial stream flow alteration, discharge of hazardous contaminants to coho habitat, or contribute to long-term reduction in habitat or maintenance of low quality habitat. SONCC coho salmon is designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(2)(D).)

SONCC coho salmon individuals are documented as being present within the Project site and suitable habitat exists within and downstream of the Project site. Because of the proximity of the nearest documented SONCC coho salmon, dispersal patterns of SONCC coho salmon, and the presence of suitable SONCC coho salmon habitat within the Project site, the National Marine Fisheries Service (NMFS) determined that SONCC coho salmon is reasonably certain to occur within the Project site and that Project activities are ex-

pected to result in the incidental take of SONCC coho salmon.

According to NMFS, the Project will result in temporary modification of 28.8 miles of SONCC coho salmon habitat.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, FGSC prepared the HCP in support of an application for an incidental take permit (ITP). On November 28, 2012, NMFS issued ITP No. 17722 for the Project pursuant to section 10(a)(1)(B) of the ESA. The ITP requires full implementation of, and compliance with, all conservation measures listed in the HCP for avoidance, minimization, and mitigation for impacts to SONCC coho salmon, as well as compliance with the terms and conditions in the associated Implementing Agreement (IA), all of which were incorporated by reference as conditions of the ITP. On May 17, 2012, NMFS issued a biological opinion (Service File No. 151422SWR2008AR00330) (BO) for the Project. The BO requires FGSC to comply with its terms as well as those contained in its associated incidental take statement (ITS) and measures contained within the HCP, and concludes that no additional protection measures are needed to minimize impacts to SONCC coho salmon.

On December 15, 2012, the Director of the California Department of Fish and Wildlife (CDFW) received a notification from FGSC requesting a determination pursuant to Fish and Game Code section 2080.1 that the NMFS ITP, which requires implementation of and compliance with the BO and its related ITS, IA and HCP, is consistent with CESA for purposes of the Project and the anticipated incidental take of SONCC coho salmon (Cal. Reg. Notice Register 2012, No. 52-Z, p. 1855).

Determination

CDFW has determined that the BO, its related ITS, and ITP, which includes the requirement to fully implement the HCP, are consistent with CESA as to the Project and the anticipated incidental take of SONCC coho salmon because the mitigation measures contained in the BO and its related ITS, as well as the ITP and the conditions in the HCP aquatic conservation program, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of SONCC coho salmon will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO, its related ITS, ITP and HCP will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance, minimization, and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued exist-

¹ Pursuant to Fish and Game Code section 86, "'Take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 CAL.4th 459,507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "'take' . . . means to catch, capture or kill").

tence of SONCC coho salmon. The mitigation measures in the BO, its related ITS, ITP and HCP include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- Establishment of Class I (fish-bearing) and Class II (non-fish-bearing aquatic habitats) Watercourses and Lake Protection Zones (WLPZ).
 - The minimum WLPZ width along Class I watercourses shall be 150 feet.
 - The minimum WLPZ width along Class II watercourses shall be 100 feet.
- Trees in the WLPZ with the highest likelihood to provide adequate large woody debris to Class I and Class II streams shall be protected from harvest through a retention requirement of 85 percent in the inner zone (0 to 75 feet for Class I, 0 to 50 feet for Class II) and 65 percent in the remaining outer zone (76 to 150 feet for Class I, 51 to 100 feet for Class II). Harvesting within Class I and Class II WLPZ shall be restricted except to promote improvements to salmonid habitat.
- Within a WLPZ for Class I watercourses and lakes, sufficient trees shall be retained to maintain the pre-harvest level of direct shading to pools.
- Heavy equipment operation shall be prohibited in Mass Wasting Hazard Zones under saturated soil conditions unless review and approval from a Professional Geologist or Certified Engineering Geologist.
- FGSC shall stabilize disturbed watercourse channels and banks, and shall restore them to as near their natural condition as practicable, including shape and gradient.
- FGSC shall apply erosion control materials prior to the onset of measurable precipitation with reapplication as needed to avoid any visible increase in surface erosion or turbidity in Class I, Class II or Class III (intermittent) receiving watercourses and lakes.
- FGSC shall perform mulching, grass seeding, planting, and/or installation of energy dissipation (rock armor or woody debris) when determined necessary by qualified and trained personnel for additional erosion control to minimize erosion and prevent sediment from entering watercourses.
- Water drafting from within a channel zone of a natural watercourse or from a lake shall comply with NMFS water drafting guidelines.

- New road or landing construction, reconstruction, new watercourse crossings, use of Class I fords or opening of old roads (except for the purpose of decommissioning) within WLPZs shall be subject to approval by the Director of California Department of Forestry and Fire Protection, with written concurrency by CDFW.

Monitoring and Reporting Measures

- FGSC shall conduct compliance monitoring for the aquatic species conservation strategy of the HCP. This shall consist of documenting compliance with the riparian, slope stability, road management, and other conservation measures (i.e., measures intended to avoid and minimize adverse effects to SONCC coho salmon).
- FGSC shall conduct compliance monitoring associated with riparian management. This shall consist of documentation through annual post-harvest WLPZ inspections of Class I and Class II WLPZs where harvest has occurred in THPs for that year. These inspections will evaluate compliance, as implemented, with WLPZ management measures (e.g., WLPZ width, canopy coverage, tree retention, soil disturbance). FGSC will report results to NMFS on an annual basis with a trend analysis conducted on five-year intervals. Although not a condition of the BO, CDFW requests a copy of the compliance monitoring report as well.

Financial Assurances

FGSC has provided financial assurances consistent with CESA in the form of the Memorandum of Agreement which assures that funding will be provided to CDFW with a \$258,210.00 letter of credit for the first 15 years of the HCP, adjusted thereafter for the remainder of the HCP using calculations in the IA and for inflation.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of SONCC coho salmon, provided FGSC implements the Project as described in the BO and HCP, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the BO and its ITS, as well as the HCP and ITP. If there are any substantive changes to the Project, including changes to the mitigation measures, or if NMFS amends or replaces the BO, its related ITS, HCP or ITP, FGSC shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from

CDFW. (See generally Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)).

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

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

**NOTICE TO INTERESTED PARTIES
February 1, 2013**

**TENTATIVE AGENDA FOR THE FEBRUARY
25, 2013 MEETING OF THE
DEVELOPMENTAL AND REPRODUCTIVE
TOXICANT IDENTIFICATION COMMITTEE**

The Developmental and Reproductive Toxicant Identification Committee of OEHHA's¹ Science Advisory Board identifies chemicals for addition to the list of chemicals known to the State to cause reproductive toxicity (Health and Safety Code section 25249.8). The Committee serves as the "State's Qualified Experts" for determining whether a chemical has been clearly shown, through scientifically valid testing according to generally accepted principles, to cause reproductive toxicity.

A public meeting of this committee will be held on **Monday, February 25, 2013**. The meeting will be available via webcast. On the day of the meeting, the link to the webcast will be posted on the OEHHA web site at

http://www.oehha.ca.gov/prop65/whats_new/index.html. If you have special accommodation or language needs, please contact Cynthia Oshita at (916) 445-6900 or Cynthia.Oshita@oehha.ca.gov by February 14,

2013. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

The tentative agenda for this meeting is given below. The order of items on the agenda is provided for general reference only. The order in which items are taken up by the Committee is subject to change at the discretion of the Chair.

- I. INTRODUCTION AND ADMINISTRATION OF THE OATH OF OFFICE TO NEWLY APPOINTED MEMBERS
- II. ORIENTATION OF NEW MEMBERS
- III. CONSIDERATION OF A CHEMICAL AS KNOWN TO THE STATE TO CAUSE REPRODUCTIVE TOXICITY
 - A. Xylene
 - Staff presentation
 - Committee discussion
 - Public comments*
 - Committee discussion and decision
- IV. UPDATE OF THE SECTION 27000 LIST OF CHEMICALS WHICH HAVE NOT BEEN ADEQUATELY TESTED AS REQUIRED
- V. STAFF UPDATES
- VI. SUMMARY OF COMMITTEE ACTIONS

*Public comments will be limited to 5 minutes per commenter, but may be limited to 3 minutes if a large number of individuals wish to comment.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

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

**NOTICE TO INTERESTED PARTIES
February 1, 2013**

**SAVE THE DATE
DEVELOPMENTAL AND REPRODUCTIVE
TOXICANT
IDENTIFICATION COMMITTEE MEETING**

The Developmental and Reproductive Toxicant Identification Committee is scheduled to meet on Monday, March 18, 2012, in the Byron Sher Auditorium of the California Environmental Protection

¹ The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code, section 25249.5 et seq. (commonly known as Proposition 65).

Agency headquarters building located at 1001 I Street, Sacramento beginning at 10:00 a.m. and continuing until all business is conducted or 5:00 p.m. This meeting is in addition to the previously announced meeting of the committee scheduled for February 25, 2013. The March 18 meeting agenda will be posted on the Office of Environmental Health Hazard Assessment (OEHHA) web site at <http://www.oehha.ca.gov/prop65.html> in advance of the meeting.

<p>SUMMARY OF REGULATORY ACTIONS</p>

**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# 2013-0102-02
AIR RESOURCES BOARD
 Area Designations for State Ambient Air Quality Standards

This rulemaking action updates the area designations for ambient air quality standards for two pollutants: ozone and fine particulate matter in sections 60201 and 60210, respectively, of Title 17 of the California Code of Regulations. The amendments change several area designations from “unclassified” to “attainment” for fine particulate matter, and, for ozone, list three counties as “nonattainment-transitional,” pursuant to Health and Safety Code Section 40925.5, which had been listed as “nonattainment.”

Title 17
 California Code of Regulations
 AMEND: 60201, 60210
 Filed 01/22/2013
 Effective 04/01/2013
 Agency Contact: Amy Whiting (916) 322-6533

File# 2013-0111-02
CALIFORNIA HEALTH BENEFIT EXCHANGE
 Process for Selecting Qualified Health Plans for the Exchange

The California Patient Protection and Affordable Care Act established the California Health Benefit Exchange (HBEX). HBEX is responsible for arranging and contracting with health insurance issuers to provide

affordable, quality health insurance coverage to qualified individuals and qualified employers through the Exchange. HBEX must contract with health insurance issuers through a competitive selection process. This emergency rulemaking will provide standards and guidelines that HBEX will use in its selection of health insurance issuers for participation as qualified health plans in the Exchange.

Title 10
 California Code of Regulations
 ADOPT: 6410, 6420, 6422, 6424, 6440, 6442, 6444
 Filed 01/17/2013
 Effective 01/17/2013
 Agency Contact: Brandon Ross (916) 323-3502

File# 2012-1210-04
COMMISSION ON TEACHER CREDENTIALING
 Teacher Librarian Services Credential and Special Class Authorization

This regulatory action makes revisions to the requirements and authorizations for individuals to be prepared for the Teacher Librarian Services Credential and adds a Special Class Authorization program for this and related credentials.

Title 5
 California Code of Regulations
 ADOPT: 80053.1 AMEND: 80024.6, 80053
 Filed 01/17/2013
 Effective 01/17/2013
 Agency Contact: Roxann Purdue (916) 324-6453

File# 2012-1205-01
**DEPARTMENT OF CORRECTIONS AND
 REHABILITATION**
 Inmate Classification Score System

This filing is a certificate of compliance for an emergency regulatory action by the California Department of Corrections and Rehabilitation (CDCR) which amended sections 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, and 3521.2 in title 15 of the California Code of Regulations. The emergency regulatory action, submitted to the Office of Administrative Law (OAL) pursuant to Penal Code section 5058.3 as operationally necessary, made changes to the inmate classification score system and was deemed an emergency by the Legislature pursuant to Penal Code section 5058.3.

Title 15
 California Code of Regulations
 AMEND: 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, 3521.2
 Filed 01/17/2013
 Effective 01/17/2013
 Agency Contact: Josh Jugum (916) 445-2228

File# 2013-0109-01
 DEPARTMENT OF REHABILITATION
 Rehabilitation Appeals Board

The Department of Rehabilitation (Department) submitted this timely emergency readoption of the emergency text adopted in OAL File No. 2012-0717-01EFP. SB 1041 (Stats. 2012, ch. 47) eliminated the Rehabilitation Appeals Board, which existed within the Department for purposes of hearing appeals on actions taken by the Department on applications for Department services. The Department submitted this emergency readopt/file and print action pursuant to Welfare and Institutions Code section 19710, which was enacted in SB 1041 and which gives the Department deemed emergency authority to adopt regulations. In this action, the Department is amending eleven title 9 regulations pertaining to filing appeals and related procedures and timelines that were formerly applicable to the Rehabilitation Appeals Board. Welfare and Institutions Code section 19710 also exempts the emergency regulations from OAL review.

Title 9
 California Code of Regulations
 AMEND: 7141.5, 7143, 7227, 7350, 7351, 7353.6, 7354, 7355, 7356, 7357, 7358
 Filed 01/17/2013
 Effective 01/17/2013
 Agency Contact: Shelly Risbry (916) 445-4466

File# 2012-1224-02
 DEPARTMENT OF SOCIAL SERVICES
 CalWORKs 48 Month Time Limit, Good Cause Exemption & Short Term Change

This Certificate of Compliance extends exemptions and policies for finding good cause for the California Work Opportunity and Responsibility to Kids (CalWORKS) program for one additional year. (Previous OAL file #2012-0619-03EFP.)

Title MPP
 California Code of Regulations
 AMEND: 40-107, 42-301, 42-302, 42-431, 42-712, 42-713, 42-721, 44-133, 44-307, 44-316, 82-833
 Filed 01/16/2013
 Effective 01/16/2013
 Agency Contact: Zaid Dominguez (916) 657-2586

File# 2012-1207-01
 PHYSICAL THERAPY BOARD OF CALIFORNIA
 Disciplinary Guidelines

This rulemaking action amends section 1399.15 of the Title 16 of the California Code of Regulations and the Model Guidelines for Issuing Citations and Impos-

ing Discipline, which is incorporated by reference by Section 1399.15. The amendments update these regulations to conform to statutory changes and changes in the practice of physical therapy. The amendments also remove any discretion an administrative law judge or other tribunal may have had to order anything other than license revocation in a disciplinary proceeding involving a licensee whose professional practice violation consisted of a sex offense or who has been convicted of a sex offense.

Title 16
 California Code of Regulations
 AMEND: 1399.15
 Filed 01/22/2013
 Effective 04/01/2013
 Agency Contact: Elsa Ybarra (916) 561-8262

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN August 29, 2012 TO
 January 23, 2012**

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

- Title 1**
 11/13/12 AMEND: 1, Appendix A
- Title 2**
 01/09/13 ADOPT: 18756
 01/08/13 AMEND: 18723, 18730
 01/07/13 AMEND: 18545, 18703.4, 18940.2
 01/07/13 AMEND: 18705.5
 01/02/13 AMEND: 22500, 22501, 22502, 22503, 22505, 22506, 22508, 22509 REPEAL: 22504, 22507, 22510, 22511, 22512, 22513, 22514, 22515, 22516, 22517, 22518, 22519
 12/31/12 ADOPT: 1859.97 AMEND: 1859.2, 1859.90.2
 12/28/12 AMEND: 18410, 18425, 18435, 18465.1, 18550 REPEAL: 18539
 12/27/12 AMEND: 649.7
 12/26/12 ADOPT: 7294.0, 7294.2 AMEND: 7293.5, 7293.6, 7293.7, 7293.8, 7293.9, 7294.0 (renumbered to 7294.1), 7294.1 (renumbered to 7294.3), 7294.2 (renumbered to 7294.4)

CALIFORNIA REGULATORY NOTICE REGISTER 2013, VOLUME NO. 5-Z

12/24/12 REPEAL: 60020, 60025, 60030, 60040, 60045, 60050, 60055, 60100, 60110, 60200
 12/11/12 AMEND: 649.15
 12/06/12 AMEND: 1859.2, 1859.90.2
 11/30/12 ADOPT: 7291.4, 7291.7, 7291.14, 7291.18 AMEND: 7291.2, 7291.3, 7291.4 and renumber 7291.5, 7291.5 and renumber 7291.6, 7291.6 and renumber 7291.8, 7291.7 and renumber 7291.9, 7291.9 and renumber 7291.10, 7291.10 and renumber 7291.17, 7291.11, 7291.12, 7291.13, 7291.15, 7291.16 REPEAL: 7291.8, 7291.14
 11/29/12 ADOPT: 558.1
 11/28/12 AMEND: 54100
 11/09/12 ADOPT: 599.945.4 AMEND: Article 27.5 heading
 11/08/12 AMEND: 18723
 11/06/12 REPEAL: 56600
 11/06/12 REPEAL: 52000
 11/06/12 REPEAL: 52300
 11/01/12 ADOPT: 1859.95.1 AMEND: 1859.2, 1859.95
 10/23/12 AMEND: 1859.2, 1859.71.6, 1859.77.4, 1859.107, 1859.193, 1859.194, 1859.197
 10/22/12 ADOPT: 599.944, 599.946, 599.947
 10/18/12 AMEND: 1575
 10/18/12 ADOPT: 577, 578
 10/17/12 AMEND: 20804
 10/03/12 ADOPT: 18730.1
 10/02/12 AMEND: 1859.2, 1859.71.4, 1859.78.1, 1859.79.2, 1859.82, 1859.83, 1859.106, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.163.5, 1859.193
 09/20/12 ADOPT: 59730
 09/19/12 AMEND: 1155.250, 1155.350
 09/14/12 REPEAL: 52100
 09/10/12 ADOPT: 59650
 08/30/12 AMEND: 60000, 60010, 60300, 60310, 60323, 60325, 60330, 60400, 60550, 60560, 60600, 60610 REPEAL: 60020, 60025, 60030, 60040, 60045, 60050, 60055, 60100, 60110, 60200

Title 3

11/15/12 AMEND: 3435(b)
 10/29/12 ADOPT: 1352.4 AMEND: 1351, 1358.4
 10/23/12 ADOPT: 3639
 10/23/12 ADOPT: 3439
 09/21/12 AMEND: 3437(b) and (c)
 09/18/12 AMEND: 6449.1, 6486.7
 09/12/12 AMEND: 3700(c)
 09/12/12 AMEND: 3435(b)

Title 4

01/08/13 ADOPT: 5205 AMEND: 5000, 5054, 5144, 5170, 5190, 5200, 5230, 5350, 5370 REPEAL: 5133
 12/21/12 ADOPT: 5342, 5343, 5344, 5345, 5346, 5347, 5348
 12/13/12 AMEND: 12391(a)(2)
 12/03/12 AMEND: 10032, 10033, 10034, 10035
 11/27/12 ADOPT: 4305, 4309 AMEND: 4300, 4302, 4304, 4306, 4307, 4308
 10/30/12 AMEND: 5000, 5052
 10/29/12 ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060
 10/17/12 AMEND: 1656
 10/16/12 ADOPT: 1581.2
 10/10/12 AMEND: 1867
 09/27/12 AMEND: 5000, 5170, 5200, 5230, 5370, 5500, 5540
 09/12/12 ADOPT: 12391(a)(1), (3), (4), (b) & (c), 12392 AMEND: 12360
 09/04/12 AMEND: 10032, 10033, 10034, 10035
 08/30/12 ADOPT: 1489.1
 08/29/12 ADOPT: 5205 AMEND: 5000, 5054, 5144, 5190, 5200, 5230, 5370, 5170, 5350 REPEAL: 5133

Title 5

01/17/13 ADOPT: 80053.1 AMEND: 80024.6, 80053
 01/14/13 ADOPT: 80048.3.2 AMEND: 80048.3.1
 12/27/12 AMEND: 58108
 12/27/12 AMEND: 55000, 55023, 55040, 55041, 55043, 58161, 58162, 58166 REPEAL: 55030
 12/24/12 ADOPT: 18224.6, 18227, 18227.1 AMEND: 18078, 18409, 18411, 18424, 18426
 12/18/12 AMEND: 76120
 12/13/12 AMEND: 40601
 11/01/12 AMEND: 18407, 18422
 10/31/12 ADOPT: 620, 621, 622, 623, 624, 625, 626, 627
 09/27/12 ADOPT: 620, 621, 622, 623, 624, 625, 626, 627
 09/27/12 AMEND: 3000, 3010, 3021, 3021.1, 3022, 3023, 3024, 3025, 3027, 3028, 3042, 3051.4, 3051.75, 3051.8, 3051.9, 3051.12, 3051.13, 3051.17, 3051.18, 3052, 3053, 3062, 3063, 3064, 3066, 3067, 3069, 3080, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3088.1, 3088.2, 3089, 3090, 3091, 3092, 3093, 3094,

CALIFORNIA REGULATORY NOTICE REGISTER 2013, VOLUME NO. 5-Z

3096, 3096.1, 3096.2, 3097, 3098,
3098.1, 3098.2, 3099, 3100
09/06/12 AMEND: 1216.1

Title 8

12/31/12 ADOPT: 10206, 10206.1, 10206.2,
10206.3, 10206.4, 10206.5, 10206.14,
10206.15, 10207, 10208 AMEND:
10205, 10205.12
12/31/12 ADOPT: 15209 AMEND: 15201, 15210,
15210.1, 15475, 15477, 15481, 15484,
15496, 15497
12/31/12 ADOPT: 9792.5.4, 9792.5.5, 9792.5.6,
9792.5.7, 9792.5.8, 9792.5.9, 9792.5.10,
9792.5.11, 9792.5.12, 9792.5.13,
9792.5.14, 9792.5.15 AMEND:
9792.5.1, 9792.5.3, 9793, 9794, 9795
12/31/12 ADOPT: 37, 10159 AMEND: 1, 11, 11.5,
14, 17, 30, 31.2, 31.7, 33, 35, 35.5, 36, 38,
100, 105, 106, 10160
12/31/12 ADOPT: 9785.5, 9792.6.1, 9792.9.1,
9792.10.1, 9792.10.2, 9792.10.3,
9792.10.4, 9792.10.5, 9792.10.6,
9792.10.7, 9792.10.8, 9792.10.9
AMEND: 9785, 9792.6, 9792.9,
9792.10, 9792.12
12/27/12 ADOPT: 9789.25 AMEND: 9789.20,
9789.21, 9789.22
12/27/12 ADOPT: 9789.39 AMEND: 9789.30,
9789.31, 9789.32, 9789.33, 9789.36,
9789.37, 9789.38
12/27/12 AMEND: 9795.1, 9795.3
12/20/12 ADOPT: 10133.31, 10133.32, 10133.33,
10133.34, 10133.35, 10133.36 AMEND:
9813.1, 10116.9, 10117, 10118,
10133.53, 10133.55, 10133.57,
10133.58, 10133.60 REPEAL:
10133.51, 10133.52
12/10/12 AMEND: 10210, 10211, 10212, 10214,
10215, 10216, 10217, 10218, 10222,
10223, 10225, 10228, 10229, 10232,
10232.1, 10232.2, 10245, 10250.1,
10252.1, 10253.1, 10270, 10271, 10273,
10290, 10291, 10293, 10294.5, 10297
10/31/12 ADOPT: 6625.1 AMEND: 6505
10/23/12 AMEND: 1593, 3650
10/18/12 AMEND: 6325
10/02/12 ADOPT: 1613.11, 1613.12 AMEND:
1600, 1610.1, 1610.3, 1610.4, 1610.9,
1611.1, 1612.3, 1613, 1613.2, 1613.10,
1616.1, 1617.1, 1617.2, 1617.3, 1618.1,
1619.1, 4885, 4999
10/02/12 AMEND: 4297
09/25/12 AMEND: 2950, 3420, 3421, 3422, 3423,
3424, 3425, 3426, 3427 REPEAL: 3428

09/05/12 AMEND: 1512, 2320.10, 2940.10
09/04/12 AMEND: 5189, 5192(a)(3),
5198(j)(2)(D)2., 1532.1(j)(2)(D)2.

Title 9

01/17/13 AMEND: 7141.5, 7143, 7227, 7350,
7351, 7353.6, 7354, 7355, 7356, 7357,
7358

Title 10

01/17/13 ADOPT: 6410, 6420, 6422, 6424, 6440,
6442, 6444
01/11/13 AMEND: 2498.4.9, 2498.5, 2498.6
12/31/12 AMEND: 2695.8(f), 2695.8(g)
12/19/12 ADOPT: 2523, 2523.1, 2523.2, 2523.3,
2523.4, 2523.5, 2523.6
12/17/12 AMEND: 2248.14
12/11/12 AMEND: 3780
11/19/12 AMEND: 2698.401
11/13/12 AMEND: 2498.4.9
08/30/12 AMEND: 2468.5

Title 11

12/12/12 AMEND: 1081
11/26/12 AMEND: 1001, 1003, 1004, 1005, 1006,
1007, 1008, 1009, 1010, 1011, 1012,
1013, 1014, 1015, 1016, 1018, 1019,
1051, 1052, 1053, 1054, 1055, 1056,
1057, 1058, 1060, 1070, 1071,
1080, 1081, 1082, 1083, 1084, 1950,
1951, 1952, 1953, 1954, 1955, 1956,
1957, 1958, 1959, 1960
11/15/12 AMEND: 1005, 1007, 1008
11/15/12 AMEND: 1005
09/18/12 AMEND: 410, 411, 415, 416, 417, 420,
421, 425 REPEAL: 419, 419.1

Title 13

01/07/13 AMEND: 553.70
12/31/12 AMEND: 1900, 1956.8, 1960.1, 1961,
1961.2, 1961.3, 1962.1, 1962.2, 1976
12/11/12 AMEND: 2403, 2404, 2407, 2412, 2421,
2423, 2424, 2425, 2425.1, 2426, 2427,
2433, 2447, 2783, 2784
12/10/12 AMEND: 423.00
11/13/12 AMEND: 1200, 1239
11/06/12 ADOPT: 2210, 2211, 2212, 2213, 2214,
2215, 2216, 2217, 2218
10/15/12 ADOPT: 2477.1, 2477.2, 2477.3, 2477.4,
2477.5, 2477.6, 2477.7, 2477.8, 2477.9,
2477.10, 2477.11, 2477.12, 2477.13,
2477.14, 2477.15, 2477.16, 2477.17,
2477.18, 2477.19, 2477.20, 2477.21
AMEND: 2477
10/09/12 AMEND: 2260, 2261, 2264, 2265,
2265.1, 2266, 2266.5, 2271 REPEAL:
2258

CALIFORNIA REGULATORY NOTICE REGISTER 2013, VOLUME NO. 5-Z

09/25/12	AMEND: 156.00, 156.01	1756, 1760, 1766, 1767, 1768, 1770,
09/14/12	AMEND: 2479	1772, 1776, 1778, 1788 REPEAL: 1757
Title 13, 17		09/13/12 AMEND: 3162
09/14/12	AMEND: 2299.2, 93118.2	09/13/12 ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323
Title 14		08/29/12 AMEND: 2606, 2635.1, 2646.1, 2733, 2740, 2743, 2744
01/08/13	AMEND: 27.65, 28.30	Title 16
12/27/12	ADOPT: 1.45, 5.91 AMEND: 1.77, 2.25, 2.30, 4.20, 5.00, 5.05, 5.10, 5.40, 5.60, 5.80, 5.81, 7.00, 7.50, 8.00, 27.85, 27.90, 27.91, 28.90, 28.95, 701	01/22/13 AMEND: 1399.15
12/20/12	AMEND: 703	01/15/13 ADOPT: 1399.99.1, 1399.99.2, 1399.99.3, 1399.99.4
11/19/12	AMEND: 632	01/14/13 AMEND: 1566.1
11/07/12	AMEND: 701	01/10/13 AMEND: 1399.536
11/06/12	ADOPT: 1052.5 AMEND: 895, 916.9, 1052, 1052.1, 1052.2	01/09/13 AMEND: 1811, 1870, 1887.3
11/02/12	AMEND: 163, 164	12/18/12 ADOPT: 37.5
10/29/12	AMEND: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.11, 18660.12, 18660.13, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.20, 18660.21, 18660.22, 18660.30, 18660.31, 18660.32, 18660.33, 18660.34, 18660.35, 18660.36, 18660.37, 18660.38, 18660.39, 18660.41, 18660.43	12/13/12 AMEND: 2615, 2620
10/18/12	ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8	11/29/12 AMEND: 2524, 2579.10
10/03/12	AMEND: 300	11/27/12 ADOPT: 1495, 1495.1, 1495.2, 1495.3, 1495.4
10/02/12	AMEND: 632	11/14/12 ADOPT: 1139, 1140, 1141, 1142, 1143, 1144
09/27/12	ADOPT: 1667.1, 1667.2, 1667.3, 1667.4, 1667.5, 1667.6	11/13/12 ADOPT: 2333
09/25/12	AMEND: 18660.40	11/07/12 ADOPT: 1023.15, 1023.16, 1023.17, 1023.18, 1023.19
09/21/12	AMEND: 502	10/31/12 AMEND: 1425
09/12/12	AMEND: 18660.17, 18660.19, 18660.31	10/29/12 ADOPT: 1065
09/07/12	AMEND: 300	10/25/12 ADOPT: 2.8, 11, 11.1 AMEND: 9.2
08/31/12	ADOPT: 671.8 AMEND: 671.1	09/25/12 AMEND: 1514, 1525.1
Title 15		09/25/12 AMEND: 3340.15, 3394.6
01/17/13	AMEND: 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, 3521.2	09/12/12 AMEND: 961 REPEAL: 933
01/15/13	AMEND: 3999.14	09/10/12 ADOPT: 4116, 4117, 4118, 4119
12/20/12	ADOPT: 3079, 3079.1 AMEND: 3000, 3075.2, 3075.3	09/07/12 AMEND: 4
10/25/12	ADOPT: 3999.14	08/30/12 ADOPT: 2557, 2557.1, 2557.2, 2557.3, 2595, 2595.1, 2595.2, 2595.3
10/22/12	AMEND: 3019, 3044, 3091, 3120	08/29/12 ADOPT: 4146, 4148, 4149, 4149.1 AMEND: 4100, 4101
10/18/12	ADOPT: 3999.13	Title 17
10/17/12	ADOPT: 3375.6 AMEND: 3000, 3375	01/22/13 AMEND: 60201, 60210
10/04/12	ADOPT: 3352.3 AMEND: 3350.1, 3352, 3352.1, 3352.2, 3354, 3354.2, 3355.1, 3358	01/03/13 AMEND: 2641.56
09/25/12	ADOPT: 1712.1, 1714.1, 1730.1, 1740.1, 1748.5 AMEND: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.1, 1747.5, 1748, 1751, 1752, 1753, 1754,	12/19/12 ADOPT: 95158 AMEND: 95101, 95102, 95103, 95104, 95105, 95111, 95112, 95113, 95114, 95115, 95119, 95120, 95121, 95122, 95123, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, 95202, 95802
		12/06/12 AMEND: 95920
		11/26/12 ADOPT: 95480.2, 95480.3, 95480.4, 95480.5 AMEND: 95480.1, 95481, 95482, 95484, 95485, 95486, 95488, 95490
		11/14/12 AMEND: 6508
		11/02/12 AMEND: 100500

CALIFORNIA REGULATORY NOTICE REGISTER 2013, VOLUME NO. 5-Z

- 10/30/12 AMEND: 100060, 100070
10/03/12 AMEND: 95201, 95202, 95203, 95204, 95205
09/04/12 ADOPT: 30305.1, 30308.1, 30311.1
08/30/12 AMEND: 95802, 95812, 95814, 95830, 95831, 95832, 95833, 95834, 95856, 95870, 95892, 95910, 95911, 95912, 95913, 95914, 95920, 95021
08/29/12 AMEND: 100800
- Title 18**
01/14/13 AMEND: 101, 171, 252, 1045
01/08/13 REPEAL: 2558, 2558.1, 2559, 2559.1, 2559.3, 2559.5
12/18/12 ADOPT: 19089
12/04/12 ADOPT: 2000
10/23/12 AMEND: 313, 321
- Title 19**
12/17/12 AMEND: 2570.1, 2570.2, 2571, 2572.1, 2572.2, 2573.1, 2573.2, 2573.3
- Title 20**
10/26/12 AMEND: 1601, 1602, 1604, 1605.1, 1605.3, 1606, 1607
- Title 21**
12/24/12 ADOPT: 2653, 2654, 2655, 2656, 2657, 2658
- Title 22**
01/09/13 AMEND: 70110, 70215, 70841, 71110, 71645, 72203, 72641, 73208, 73639, 74108, 74669, 76211, 76525, 76555, 76651, 76846, 76915, 78437 REPEAL: 70111, 70114, 71111, 73209, 74109
01/07/13 AMEND: 66260.10, 66264.550, 66264.551, 66264.552, 66264.552.5, 66264.553, 67100.13, 67383.3, 67390.2, 67391.1, 67401.1, 67401.2, 67401.3, 67401.4, 67401.5, 67401.6, 67401.7, 67401.8, 67401.9, 67401.10, 67401.11, 67401.12, 67401.13 REPEAL: 69000, 69000.5, 69001, 69002, 69003, 69004, 69005, 69006, 69007, 69008, 69009, 69010, 69011, 69012, 69013, 69200, 69201, 69202, 69203, 69204, 69205, 69206, 69207, 69208, 69209, 69210, 69211, 69212, 69213, 69214
- 12/10/12 AMEND: 926-3, 926-4, 926-5
11/13/12 ADOPT: 2707.2-1 AMEND: 3302-1
10/25/12 AMEND: 97005, 97019, 97041, 97052, 97053, 97054
10/18/12 AMEND: 97240
10/15/12 ADOPT: 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.90, 66273.91, 66273.100, 66273.101 AMEND: 66261.4, 66273.6, 66273.7, 66273.9, 66273.70, 66273.72, 66273.73, 66273.74, 66273.75
09/06/12 ADOPT: 66269.2
- Title 23**
12/17/12 ADOPT: 3949.9
12/06/12 ADOPT: 3979.5
11/14/12 AMEND: 1062, 1064, 1068
11/13/12 ADOPT: 2924
11/13/12 ADOPT: 3969.3
09/06/12 ADOPT: 3959.5
- Title 25**
10/10/12 AMEND: 8201, 8205, 8212
- Title 27**
12/17/12 AMEND: 25705
11/19/12 AMEND: 25903
10/10/12 AMEND: 25707
09/20/12 AMEND: 25705(b)
09/12/12 AMEND: 25403(a), 25603.3(a)
- Title 28**
09/06/12 ADOPT: 1300.74.73
- Title MPP**
01/16/13 AMEND: 40-107, 42-301, 42-302, 42-431, 42-712, 42-713, 42-721, 44-133, 44-307, 44-316, 82-833
01/14/13 AMEND: 40-105.4(g)(1), 44-111.23, 44-113.2, 44-113.54(QR), 44-315.39(QR), 89-201.513
11/29/12 AMEND: 41-440, 42-716, 42-717, 44-207
11/19/12 AMEND: 31-003, 31-021, 31-501
11/01/12 AMEND: 42-213, 44-211
10/10/12 AMEND: 25707
09/20/12 AMEND: 25705(b)
09/12/12 AMEND: 25403(a), 25603.3(a)