



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (Commission), 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

ADOPTION

MULTI-COUNTY

AGENCY: Local Agency Workers' Compensation Excess JPA

STATE AGENCY: Board of State and Community Corrections

AMENDMENT

MULTI-COUNTY

AGENCY: Hanford Joint Union High School District

A written comment period has been established commencing on **February 21, 2014** and closing on **April 7, 2014**. Written comments should be directed to the Fair Political Practices Commission, Attention Cyndi Glaser, 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 her review, unless any interested person or his/her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **April 7, 2014**. 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 Cyndi Glaser, 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 Cyndi Glaser, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**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

STATE AGENCY: UNIVERSITY OF
CALIFORNIA

A written comment period has been established commencing on **February 21, 2014** and closing on **April 7, 2014**. Written comments should be directed to the Fair Political Practices Commission, Attention Val Joyce, 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/her review, unless any interested person or his/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/her or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **March 31, 2014**. 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 Val Joyce, 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 Val Joyce, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

Fair Employment and Housing Council
c/o Phyllis W. Cheng, Director
Department of Fair Employment and Housing
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758

Comments may also be submitted by e-mail to FEHCouncil@dfeh.ca.gov.

**TITLE 2. DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING**

**CALIFORNIA FAMILY RIGHTS ACT
REGULATIONS**

The Fair Employment and Housing Council (Council) proposes to amend sections 11087 to 11098 of Title 2 of the California Code of Regulations (“Family Care and Medical Leave”) after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Council will hold a public hearing starting at **10:00 a.m. on April 7, 2014**, at the University of California, Irvine, School of Law, EDU 1121, 401 East Peltason Drive, **Irvine**, California 92697.

The Department will hold a second hearing at **10:00 a.m. on June 2, 2014**, at the California Public Utilities Commission, Main Auditorium, 505 Van Ness Avenue, **San Francisco**, California 94102.

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Council. The written comment period closes at **5:00 p.m. on June 2, 2014**. The Council will consider only comments received by that time. Written comments can be mailed to:

AUTHORITY AND REFERENCE

Government Code section 12935(a) authorizes the Council to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific section 12945.2 of the Government Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

This rulemaking action clarifies, makes specific, and where appropriate conforms to relevant federal regulations, existing state regulations interpreting the California Family Rights Act (CFRA) set forth in Government Code section 12945.2. CFRA ensures work leave rights for the birth of a child for purposes of bonding; for the placement of a child in an employee’s family for adoption or foster care; for the serious health condition of an employee’s child, parent, or spouse; and for an employee’s own serious health condition.

In compliance with the Administrative Procedure Act (APA), the Council proposes to adopt these rules as duly noticed, vetted, and authorized regulations. Since the Council’s predecessor entity previously promulgated CFRA regulations, the broad objective of the proposed amendments is to further supplement those regulations, primarily by clarifying confusing rules, making technical amendments to ease readability, and adopting and modifying some of the parallel federal Family and Medical Leave Act (FMLA) regulations. This action has the specific benefit of creating a more comprehensive set of rules to ensure that employees and employers better understand their rights and duties, in turn reducing litigation costs and court overcrowding.

The proposed amendments cover 11 sections with the following titles/subjects: 1. Definitions, 2. Right to CFRA Leave: Denial of Leave; Reasonable Request; Permissible Limitation, 3. Right to Reinstatement: Guarantee of Reinstatement; Rights Upon Return; Refusal to Reinstatement; Permissible Defenses, 4. Computation of Time Periods: Twelve Workweeks; Minimum Duration, 5. Requests for CFRA Leave: Advance Notice; Certification; Employer Response, 6. Terms of CFRA Leave, 7. Relationship between CFRA Leave and Pregnancy Disability Leave; Relationship between CFRA Leave and Non-Pregnancy Related Disability

Leave, 8. Retaliation and Protection from Interference with CFRA Rights, 9. Notice of Right to Request CFRA Leave, 10. Relationship with FMLA Regulations, and 11. Certification Form.

Also, as per section 11096 of these regulations, as amended, “[t]o the extent that they are within the scope of Government Code section 12945.2 and not inconsistent with this article, other state law, or the California Constitution, the Council incorporates by reference the federal regulations interpreting FMLA that became effective March 8, 2013 (29 C.F.R. Part 825), which govern any FMLA leave that is also a leave under this article.” The FMLA regulations were previously incorporated by reference; this modification merely updates the reference by including the date of the most current federal regulations and clarifies that the federal regulations are incorporated only to the extent that they are within the scope of Government Code section 12945.2.

The Council has determined that the proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Council has concluded that these are the only regulations that concern the California Family Rights Act.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Council has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: No additional costs or savings beyond those imposed by existing CFRA regulations.

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: No additional costs or savings beyond those imposed by existing CFRA regulations.

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

Cost impacts on a representative private person or businesses: No additional costs or savings beyond those imposed by existing CFRA regulations. Therefore, the agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Results of the economic impact assessment/analysis: The Council anticipates that the adoption of the regulations will not impact the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses within the state, or the expansion of businesses currently doing business within the state. To the contrary, adoption of the proposed amendments to existing regulations is anticipated to benefit California businesses, workers, and the state’s judiciary by clarifying and streamlining the operation of the law, making it easier for employees and employers to understand their rights and obligations and reducing litigation costs for businesses.

Statewide adverse economic impact directly affecting businesses and individuals: The Council has made an initial determination that the proposed action *will not* have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

Small Business Determination: The proposed amendments, which clarify existing regulations without imposing any new burdens, will not affect small businesses because the California Family Rights Act applies only to businesses with 50 or more employees.

Business Report: The Council has determined that the proposed regulations do not require a report to be made.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Council must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the Council’s attention 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 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 Council has thus far not become aware of a better alternative and invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Phyllis W. Cheng, Director
Department of Fair Employment and Housing
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758
Telephone: (916) 478-7248
E-mail: phyllis.cheng@dfeh.ca.gov

The backup contact person for these inquiries is:

Annamarie Billotti, Chief of Dispute Resolution,
Legislative & Regulatory Affairs
Department of Fair Employment and Housing
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758
Telephone: (916) 478-7247
E-mail: annmarie.billotti@dfeh.ca.gov

Please direct requests for copies of the proposed text (express terms) of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based, should other sources be used in the future, to Annmarie Billotti at the above address.

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

The Council will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting Annmarie Billotti at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons will be available on the Council's Web page: <http://www.dfeh.ca.gov/FairEmploymentAndHousingCouncil.htm>.

Copies also may be obtained by contacting Annmarie Billotti at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and any modified texts and the Final Statement of Reasons can be accessed through the Council's Web page at <http://www.dfeh.ca.gov/FairEmploymentAndHousingCouncil.htm>.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Division 4. Plant Industry
Chapter 1. Chemistry
Subchapter 1. Fertilizing Materials

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to adopt Title 3, sections 2326, 2326.1, 2326.2, and 2326.3 of the California Code of Regulations (CCR).

PUBLIC HEARING

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

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. Comments may also be submitted via facsimile (FAX) at (916) 900-5349 or by e-mail to Amadou.Ba@cdfa.ca.gov. The written comment period closes at **5:00 p.m. on April 7, 2014**. The Department will only consider comments received at the Department by that time. Submit comments to:

Amadou Ba, Environmental Program Manager I
Feed, Fertilizer, and Livestock Drug Services
Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
Telephone: (916) 900-5022;
Fax: (916) 900-5349

AUTHORITY AND REFERENCE

Notice is hereby given that the California Department of Food and Agriculture, pursuant to the authority vested by sections 407, 14501, 14502, 14611, and 14613, of the Food and Agricultural Code (FAC), and to implement, interpret, or make specific sections 14501, 14517, 14533, 14551, 14611, and 14613, of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Department of Food and Agriculture's (CDFA's) Fertilizing Materials Inspection Program (FMIP) is statutorily tasked with licensing and label registration, tonnage reports, field inspections, and administration of the Fertilizer Research and Education Program (FREP). The Fertilizing Materials Inspection Program is responsible for reviewing and registering product labels, promoting agronomically sound and environmentally safe use of fertilizing materials through FREP, and ensuring fertilizing materials are safe, effective, and meet the nutrients guaranteed by the manufacturer. Producers of specialty fertilizer, packaged agricultural mineral, auxiliary soil and plant substance, organic input material, and packaged soil amendment are statutorily mandated to register with the FMIP.

These proposed regulations are intended to set the mill assessment rate for the Fertilizing Materials Inspection Program (FMIP) and for the Fertilizer Research and Education Program (FREP). The California Code of Regulations, Article 6. Inspection Fees, Section 14611(a) mandates that a licensee whose name appears on the label of packaged fertilizing materials, as defined in Sections 14533 and 14551, shall pay to the secretary an assessment not to exceed two mills (\$.002) per dollar of sales. Section 14611(b) states an additional assessment may be imposed by the secretary not to exceed one mill (\$.001) per dollar of sales for all sales of fertilizing materials, to provide funding for research and education regarding the use and handling of fertilizing materials.

Anticipated Benefits of the Proposed Action: The Department anticipates by increasing the mill assessment rate, operational costs for funding the activities of re-

search and education, including nitrate remediation projects, will assist the Department in focusing on consumers receiving safe, effective fertilizing materials, and meeting the quality and quantity guaranteed by the manufacturer; thus, ensuring the protection of public health and safety in the agricultural community.

There is no existing, comparable federal regulation or statute regulating fertilizing materials. The Department is the only agency which can implement regulations pertaining to fertilizing materials. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: 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 person or business: \$1,144 yearly.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department has initially determined that the proposed regulatory action would cost each licensee who pays a mill assessment approximately an additional \$1,144 yearly. There are 2,312 fertilizer licensees who would be impacted; hence the impact to the entire fertilizer industry will be approximately \$2,644,196.

These regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within the State of California; or
- (3) Affect the expansion of businesses currently doing business within the State of California.
- (4) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The proposed regulatory adoptions will benefit the regulated industry by funding research projects related to nitrate loading in groundwater. For additional information on benefits, please see Anticipated Benefits under the Informative Digest/Policy Statement Overview.

Statewide adverse economic impact directly affecting businesses and individuals: Although the proposed action *will* directly affect businesses statewide, including small businesses, the Department concludes that the adverse economic impact, including the ability of California businesses to compete with business in other states, *will not* be significant.

Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed. It 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.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or, if requested, at a scheduled hearing.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Amadou Ba, Environmental Program Manager I
Feed, Fertilizer, and Livestock Drug Services
Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
Telephone: (916) 900-5022; Fax: (916) 900-5349

The backup contact person for these inquiries is:

Maria Tenorio
Feed, Fertilizer, and Livestock Drug Services
Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
Telephone: (916) 900-5022;
Fax: (916) 900-5349

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if

any, or other information upon which the rulemaking is based to Maria Tenorio at the above address.

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

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons and Fertilizer Inspection Advisory Board Meeting Minutes dated October 11, 2013. Copies may be obtained by contacting Maria Tenorio at 2800 Gateway Oaks Drive, Sacramento, CA 95833 or at the phone number provided above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Maria Tenorio at the address provided.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout form can be accessed through our website at: <http://www.cdfa.ca.gov/is/regulations.html>.

**TITLE 4. CALIFORNIA GAMBLING
CONTROL COMMISSION**

**APPLICATION WITHDRAWALS AND
ABANDONMENTS;
AND HEARING PROCEDURES**

CGCC-GCA-2014-02-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described below in the Informative Digest and Policy Statement Overview. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the proposed regulatory action at a public hearing to be held at **10:00 a.m. on June 18, 2014**, at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833.

WRITTEN COMMENT PERIOD

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail, may be submitted to the Commission at any time during the public comment period. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on April 7, 2014**. Written comments should be directed to one of the individuals designated in this notice as a contact person. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

ADOPTION OF PROPOSED ACTION

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

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 19811, 19823, 19824, 19825, 19840, 19841, 19853, 19854, 19869, 19870, 19871, 19872, 19893 and 19951, of the Business and Professions Code, and sections 11400.20, 11410.40, 11415.10, and 11415.20 of the Government Code; and to implement, interpret or make specific sections 19800, 19805, 19811, 19816, 19821, 19822, 19823, 19824, 19824.5, 19825, 19826, 19827, 19834, 19856, 19859, 19867, 19868, 19869, 19870, 19871, 19872, 19876, 19880, 19881, 19882, 19883, 19890, 19891, 19892, 19930, 19951, and 19984 of the Business and Professions Code and sections 11425.10, 11430.10, 11430.20, 11430.30, 11430.50, 11430.60, 11512, 11517 and 11521, of the Government Code, the Commission is proposing to adopt the following changes to Chapter 1 of Division 18 of Title 4 of the California Code of Regulations:

**INFORMATIVE DIGEST AND POLICY
STATEMENT OVERVIEW**

INTRODUCTION:

The Commission is the state agency charged with the administration and implementation of the Gambling Control Act (Act).¹ The Commission is authorized to adopt regulations governing the application for a license, permit, registration or approval,² including the consideration of an application at an evidentiary hearing.³ Alternatively, the Commission may consider an application in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.⁴

When considering an application through the evidentiary hearing process, the Act provides guidance for the format of the hearing.⁵ In addition, the Act provides guidance for restricting communications between the various parties and the Commission.⁶ Prior to the initiation of the evidentiary hearing process, the Act provides guidance for the withdrawal of an application.⁷

EXISTING LAW:

Section 19825 of the Business and Professions Code⁸ provides authority for the Commission to elect to utilize the administrative procedures act in place of a hearing or meeting of an adjudicative nature.

¹ Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

² Business and Professions Code section 19824, subdivision (a).

³ Business and Professions Code section 19870.

⁴ Business and Professions Code section 19825.

⁵ Business and Professions Code section 19871.

⁶ Business and Professions Code section 19872.

⁷ Business and Professions Code section 19869.

⁸ All statutory references hereinafter are to the Business and Professions Code, unless otherwise specified.

Section 19870, subdivision (a) provides authority for holding evidentiary hearings, and states that “the Commission, after considering the recommendation of the chief and any other testimony and written comments as may be presented at the meeting, or as may have been submitted in writing to the commission prior to the meeting, may either deny the application or grant a license to an applicant who it determines to be qualified to hold the license.”

Section 19871, subdivision (a) provides authority for promulgating regulations pertaining to the evidentiary hearing process, and provides a list of items that must be part of the process by stating that “[t]he Commission meeting described in section 19870 shall be conducted in accordance with regulations of the Commission. . . .”

EFFECT OF REGULATORY ACTION:

This proposed regulation has been prepared to implement sections 19869, 19870, 19871 and 19872 by providing a clear structure for the consideration of applications by the Commission that provides both flexibility to the applicant and ensures that the Commission is able to review any information it needs in order to determine if an applicant is a person of good character, honesty and integrity. This regulation establishes clear direction by identifying the steps in the process. Providing clarity helps to ensure consistency and uniformity. The ability to provide a clear procedure for the consideration of information is a vitally important part of ensuring that the Commission makes informed decisions and furthers the State’s interest in fairly and effectively regulating gambling.

ANTICIPATED BENEFITS OF PROPOSED REGULATION:

These proposed regulations have the benefit of providing *ex parte* guidelines and will clarify the processes for an applicant to withdraw an application or for the Bureau of Gambling Control (Bureau) or Commission to deem an application abandoned. The proposed action also provides clarity to the evidentiary hearing process that will help provide applicants with a clear understanding of what happens to the application once submitted, from the review by the Bureau through consideration by the Commission at a non-evidentiary hearing meeting and what could happen if the application should not be approved. In clarifying the hearing process, the proposal also provides clear benchmarks for when documents, testimony and other information will be required by each party and which may be relevant and material to a Commission decision. This clarity enhances the fairness of the eventual decision and improves the legitimacy and transparency of the decision-making process.

SPECIFIC PROPOSAL:

This proposed action would make the following specific changes in Chapter 1 of Division 18 of Title 4 of the California Code of Regulations:

ARTICLE 1. DEFINITIONS AND GENERAL PROCEDURES.

Amend Section 12002. General Definitions

This proposed action would add seven terms to Section 12002. In addition, five subsections would be updated, and others would be renumbered accordingly.

Subsection (a) adds the term “Administrative Procedure Act Hearing” or “APA hearing” which defines evidentiary hearings which occur pursuant to sections 19825 and 19930 and which proceed pursuant to the Administrative Procedure Act⁹ (APA) and Section 1000 et seq. of Title 1 of the California Code of Regulations. This definition provides needed separation between the more formal APA hearing and the default Gambling Control Act (GCA) hearing defined below.

Subsection (c) is modified to eliminate language that is no longer applicable in regard to Bureau practices. In the Act, “department” refers to the Department of Justice. While the Act assigns certain powers and authority to the department, in actual practice the responsibility for fulfilling the obligations imposed upon the department is delegated to the Bureau, pursuant to section 19810. Language has been added to make this clarification.

Subsection (d) adds the term “Bureau report” to help delineate a point in time under the Act when the Bureau has completed certain efforts in regards to an application. This is beneficial to the Commission, the applicant and the Bureau from an operational perspective.

Subsection (g) updates the definition of “Conviction” to better conform to Penal Code section 1000.1.

Subsection (h) updates the definition of “Deadly Weapon” to conform with recent amendments to the Penal Code which changed the pertinent section from 12020 to 16430.

Subsection (i) adds the term “Employee of the Commission” to differentiate between employees of the Commission and “Members of the Commission” for purposes of prohibitions on *ex parte* communications. Providing a distinction helps clarify the applicability of the provisions of the Act regarding *ex parte* communications at different points in the application process as well as helping to deter inappropriate communications.

Subsection (k) adds the abbreviation “GCA” to the previous definition of Gambling Control Act for clarification.

⁹ Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Subsection (l) adds the term “GCA hearing” which is a default evidentiary hearing available to an applicant under the Act. This evidentiary hearing occurs pursuant to sections 19870 and 19871. This definition provides the basis for clarity between the two types of hearings (GCA and APA).

Subsection (m) adds the term “Interim License” which is a term more fully developed later in these regulations and in prior regulations adopted by the Commission. Essentially, it is a license of finite duration during the pendency of some ongoing or future event such as an evidentiary hearing, pending accusation, or application process. This definition is necessary to define a category of license which now covers both interim gambling licenses, which were addressed in an approved prior rulemaking package and interim renewal licenses which are addressed in this rulemaking package.

Subsection (n) defines “Member of the Commission” as an individual appointed to the Commission by the Governor pursuant to sections 19811 and 19812. Similar to subsection (h), this helps clarify the application of the provisions of the Act regarding *ex parte* communications, who can communicate with whom, and when they can communicate.

Subsection (q) adds the term “Temporary License” which is a license that the Commission may issue prior to the consideration of an application. A temporary license is generally subject to conditions that the Commission may deem appropriate on a case-by-case basis. These licenses have been granted in the past and are specifically referenced in section 19824, but have not been specifically addressed in current regulations.

Adopt Section 12006. Service of Notices, Orders and Communications

This proposed action describes how the Commission will communicate with applicants and is the default manner for all notices proposed in this action.

Subsection (a) specifies that when this section is cited, notices will be sent to an applicant, the licensee or designated agent by certified mail at his or her mailing address. This helps make clear what the parties can expect in advance as well as providing guidance to Commission staff.

Subsection (b) specifies that notice is effective upon mailing of the communication. This helps make clear to parties when the relevant time frames under these regulations and the Act begin to run so that everyone can act accordingly.

Adopt Section 12012. Ex Parte Communication

This proposed action addresses and defines *ex parte* communications. The Act¹⁰ imposes prohibitions on

communication between “Members of the Commission” and an applicant or an agent of an applicant under certain conditions. These prohibitions are ambiguous. Section 12012 is added to clarify and provide guidance regarding prohibited communications to Members of the Commission, employees of the Commission, Bureau staff, the applicant, and interested parties. Specifically, the proposed regulation does the following:

Subsection (a) states that any communication by a party with the Commission without first providing notice to all parties so that there will be opportunity to participate in the communication is an *ex parte* communication or *ex parte*.

Subsection (b) clarifies that the *ex parte* limitations of section 19872, subdivisions (a) and (b), apply as soon as an application is filed with the Bureau until the Bureau report is issued. This clarification is necessary to provide a finite starting and ending point to the *ex parte* limitations, which provides reasonable guidelines for all parties.

Subsection (c) clarifies that the *ex parte* limitations of section 19872, subdivisions (a) and (c), apply when the Bureau report is issued until a decision is final pursuant to Section 12066. This clarification is necessary to provide a finite starting and ending point to the *ex parte* limitations, which provides reasonable guidelines for all parties.

Subsection (d) excludes from *ex parte* communications those which are:

- Related to procedure or at a properly noticed meeting;
- Provided by the applicant to an employee or member of the Commission while the application is pending disposition before either the Bureau or the Commission, which is simultaneously provided to the Bureau;
- Provided by the Bureau to an employee or member of the Commission while the application is pending disposition before the Commission, which is simultaneously provided to the applicant; or,
- Provided by an interested party while the application is pending disposition before either the Bureau or the Commission to an employee or member of the Commission, which is also provided to the Bureau and applicant.

An exception is allowed for the Bureau to provide confidential information to the Commission without it also being provided to the applicant.

Subsection (e) clarifies that the *ex parte* limitations of Government Code sections 11430.10 through 11430.80 apply when an evidentiary hearing has been selected either by the Commission or the Executive Director, until the decision is final or when the Bureau has filed an ac-

¹⁰ Specifically, section 19872.

cusatory pleading under Section 12554 until any decision is final. This clarification is necessary to provide a finite starting and ending point to the *ex parte* limitations, which provides reasonable guidelines for all parties.

Subsection (f) specifies what must happen if an applicant communicates on an *ex parte* basis. The information must be provided to the Bureau, the communication may be used as a basis to deny the applicant's application, and any subsequent meeting may be delayed. This helps alleviate any prejudice that the *ex parte* communication may have caused and also eliminates any incentive for the applicant to try to gain an advantage.

Subsection (g) provides operational guidance to Commissioners concerning what happens if a member of the Commission has an *ex parte* communication; the communication must be publicly disclosed along with any information or documents being provided to the other party as soon as possible. Any scheduled meeting may be rescheduled to provide sufficient time to allow all parties to fully participate in the communication. In addition, the member of the Commission may voluntarily withdraw. The proposal also provides options on involuntary withdrawal as well, which include not allowing for involuntary withdrawals, allowing the Commission to consider involuntary withdrawals or allowing sufficient time for an applicant to seek judicial recourse should he/she feel an involuntary withdrawal is warranted.

Subsection (h) specifies that the Commission and its employees are also subject to *ex parte* rules in their communications upon the merits of the application with either the applicant or the Bureau. This clarifies that *ex parte* limitations are in effect for communication in both directions with the Commission and its staff.

Amend Section 12015. Withdrawal of Applications

This proposed action would renumber Section 12047 as Section 12015. This renumbered section continues the current application withdrawal procedures and expands upon them. The application process can be lengthy, especially for those applying to be owners of a cardroom, and requires a significant investment in time and funds for the applicant, the Bureau, and the Commission. If at any point in the process, the applicant no longer wishes to proceed with the application, it is beneficial to all parties to have a procedure by which the application process can be ended. The Act, in section 19869, provides for a request to withdraw an application and differentiates between a withdrawal granted "with prejudice" and one granted "without prejudice."

Subsection (a) defines the time during which an applicant may seek to withdraw his or her application and establishes internal procedures for Commission staff for confirmation of the request. This subsection will

provide helpful guidance to the industry, Bureau and Commission staff as to the relevant expectations at any given point in time for withdrawal procedures.

Subsection (b) states that the Commission may grant a request either with or without prejudice, at its discretion, based upon the relevant facts of the application and request. This ensures that the Commission can act in the best interest of the public as directed in statute.

Subsection (c) requires any unused portion of the background investigation deposit to be returned if the request to withdraw is granted. The background deposit is intended to reimburse the Bureau for its expenses related to a background investigation. However, if an application is withdrawn and no further background investigation is required, any unexpended deposit balance should be returned to the applicant. This provides guidance to the Bureau and is informative to the applicant.

Subsection (d) clarifies that, if a request for withdrawal is granted with prejudice, the applicant is not eligible to re-apply for licensure until after one year from the date the requested is granted. This prohibition is imposed by section 19869 and is included in the regulation for clarity.

Subsection (e) requires the Bureau to continue and conclude its investigation of an applicant in the event a request to withdraw an application is denied, as allowed by section 19869.

Subsection (f) clarifies that, consistent with other sections, an applicant who withdraws his/her application shall not have a right to an evidentiary hearing on the decision.

Amend Section 12017. Abandonment of Applications

This proposed action would renumber Section 12048 as Section 12017. This renumbered section continues the practice of allowing the abandonment of applications under limited specified circumstances.

Subsection (a) defines the process whereby the Chief of the Bureau may deem an application abandoned based on certain criteria, including when an applicant is essentially no longer cooperating in the application process. This section is intended to provide a helpful mechanism to address applications which do not warrant continued Bureau investigation due to lack of cooperation, interest, or other circumstances that may warrant abandonment, such as the applicant's death or unemployment.

Subsection (b) defines a process whereby the Executive Director, after the Bureau has issued its report and has not recommended denial, may deem an application abandoned based on certain criteria, including when an applicant is essentially no longer cooperating in the application process. This subsection is intended to provide a helpful mechanism to address applications which

do not warrant Commission consideration due to lack of cooperation, interest, or other circumstances that may warrant abandonment, such as the applicant's death or unemployment.

Subsection (c) defines a process where the Commission, after the Bureau has issued its report, may deem an application abandoned based on certain criteria, including when an applicant is essentially no longer cooperating in the application process. This subsection is intended to allow the Commission to consider applications that warrant consideration due to lack of cooperation, interest, or other circumstances that may warrant abandonment, such as the applicant's death or unemployment.

Subsection (d) defines the treatment of corresponding deposits related to an abandoned application. This provides important details about the abandonment process.

Subsection (e) clarifies that, consistent with other sections, an applicant whose application has been abandoned shall not have a right to an evidentiary hearing on the decision.

Adopt Section 12035. Issuance of Interim Renewal License

This proposed action adds a new interim renewal license category which extends a current license approval to allow for an evidentiary hearing to occur without an applicant becoming unlicensed prior to Commission action. By holding this interim renewal license, an applicant is responsible for any existing conditions and for those fees normally required of an applicant/licensee.

Subsection (a) states that an interim renewal license shall be issued after the Commission or Executive Director has elected to hold an evidentiary hearing upon a renewal application or where an accusation has been filed. The applicant's previously issued license will, at some point, expire, leaving him or her without a valid license and legally unable to continue in the licensed activity. The interim renewal license is issued to address this gap in licensure while the evidentiary hearing is pending.

Subsection (b) provides the specifics and nature of the interim renewal licenses; including any restrictions or limitations, the fees required and how the licensee interacts with any ongoing procedures of the Commission.

ARTICLE 2. PROCEDURES FOR HEARING AND MEETINGS ON APPLICATIONS.

Amend Section 12050. Bureau Recommendation and Information

The Act, in subdivision (a) of section 19826, allows the Bureau to recommend the denial or limitation, conditioning, or restriction of any license, permit, or ap-

proval, after the completion of a background investigation. This proposed action details the manner in which any recommendation shall be provided to the applicant and how the information may be considered by the Commission.

Subsection (a) requires the Bureau to provide the applicant with the Bureau's report, any recommendation, and any other documents or information at the same time it is provided to the Commission. This requirement ensures that all parties are informed, are provided the same information, and can all properly address the Commission at a Commission meeting.

Subsection (b) clarifies that the authority to make a decision on the suitability of an applicant ultimately rests with the Commission and neither the Commission nor an Administrative Law Judge is bound by the Bureau's recommendation.

Amend Section 12052. Commission Meetings; General Procedures; Scope; Rescheduling of Meeting

This proposed action provides general procedures regarding the hearing process.

Subsections (a) and (b) clarify Commission authority and specify that this article does not apply to disciplinary proceedings. This helps all parties understand their rights and obligations.

Subsection (c) lists the specific notices that applicants are to receive in advance of a meeting and what those notices are to contain. This is to ensure that each applicant is informed and has an opportunity to address the Commission if he or she so chooses. In addition, this subsection incorporates a Notice of Defense Form (CGCC-ND-002). This new form is provided to the applicant to complete, and once returned to the Bureau and Commission, provides important guidance for how the evidentiary hearing process will proceed. The applicant may accept any proposed conditions, waive his or her participation in the evidentiary hearing or may indicate his or her interest in continuing and participating in an evidentiary hearing. Should the applicant waive participation in his or her evidentiary hearing, the subsection provides guidance for how the Commission may choose to consider the application. Should the applicant indicate a desire to participate in the hearing, a space is provided where any legal counsel's or other representative's information can be provided to the Commission and Bureau.

Subsection (d) codifies existing practices which allow the Executive Director to reschedule matters before a meeting and the Commissioners to reschedule matters at a meeting. It does not change the current operation of the Commission.

Subsection (e) clarifies that anyone who provides testimony at a Commission meeting may be sworn in by a member of the Commission or the Executive Director.

Adopt Section 12054. Consideration at Regular (Bagley–Keene) Commission Meetings

This proposed action provides procedural guidance by laying out the various decisions the Commission may make at a non-evidentiary meeting in regards to an application.

Subsection (a) describes the actions Commissioners may take at a Commission meeting, including approval of an application, sending a matter to a hearing under section 12056 (an evidentiary hearing), extending a license as necessary under section 19876(c), tabling or continuing an item, approving the withdrawal of an application, deeming a license abandoned, and granting an interim renewal license if appropriate. This list is intended to be informative and provides all parties with a non-exhaustive list of the possible actions that may occur during the meeting process.

Subsection (b) states that evidentiary hearings are not available to an applicant when the Commission approves or denies withdrawal or makes a finding of abandonment under paragraphs (5) and (6). This is to improve efficiency and clarity in the application process. If a party wanted to contest the rejection of the withdrawal or abandonment via an evidentiary hearing he or she is still able to avail himself or herself of the normal licensing process which affords him or her an opportunity for an evidentiary hearing.

Adopt Section 12056. Evidentiary Hearing

This proposed action defines the manner by which the Commission or Executive Director determines between an APA and GCA evidentiary hearing format once the Commission has elected to hold an evidentiary hearing. Additional procedural information is also provided.

Subsection (a) states that a GCA hearing, as described in sections 19870 and 19871, is the default evidentiary hearing path, unless otherwise specified by the Commission or the Executive Director. The proposal provides an alternative that would limit the selection of an APA hearing to just those cases where the Bureau has recommended denial. This provides helpful procedural guidance to the applicant as to how an evidentiary hearing is selected.

Another Alternative for the use of the APA hearing process is also being proposed. This alternative would allow for the Commission to utilize the APA hearing process with any application, regardless of Bureau recommendation, but would designate Commission staff to present the case in situations where the Bureau had not recommended denial. This alternative would re-

quire numerous adjustments to other sections as follows:

- In addition to the definition of “Employee of the Commission,” in Section 12002, the additional definitions of “Advisor to the Commission” and “Advocate of the Commission” would be required. “Advocate of the Commission” would provide for those staff tasked with presentation during the APA hearing process in the event that the Bureau had not recommended denial. “Advisor to the Commission” would be any employee of the Commission not designated as advocate to the Commission.
- The proposed *ex parte* regulations of Section 12012 would be revised to reflect that to reflect that any advocates to the Commission would be differently directed in their ability to communicate with the applicant, Bureau and Commission on items related to the merits of a specific application.
- The determination of evidentiary hearings in Section 12056 would be revised to allow for, in cases where an APA hearing is elected and the Bureau has not recommended denial, employees of the Commission to be designated as advocates of the Commission.
- The APA hearing process, in Section 12058, would be revised to allow for the advocate to the Commission to prepare and file the Statement of Issues in cases where the Bureau had not recommended denial.

Subsection (b) reiterates the requirement that certain elements of a Bureau report remain confidential, as specified in the Act. This is meant to comport with the limitations of the Act and does not provide any new basis for withholding information.

Subsection (c) makes clear that under an APA or a GCA hearing, each side bears its own costs. This simply provides guidance to public expectations regarding the licensure process.

Adopt Section 12058. APA Hearings

This proposed action provides procedural guidance for when the Commission or Executive Director elects to hold the evidentiary hearing through the processes of the APA.

Subsection (a) states that the Commission will determine whether an APA hearing will be held before an Administrative Law Judge sitting on behalf of the Commission or before the Commission itself with an Administrative Law Judge presiding, in accordance with Government Code section 11512, and that notice of the hearing will be provided pursuant to the APA. This provides procedural guidance to all parties.

Subsection (b) states that the burden is on the applicant at all times to prove his or her qualifications under the Act. This reiterates the mandate in the Act that the applicant must prove he or she is suitable for licensure.

Subsection (c) states that the Bureau will prepare and file a Statement of Issues according to Government Code section 11504, whether they made a recommendation or not. This provides guidance to all parties.

Subsection (d) makes it clear that the Bureau is not required to make a recommendation or seek any particular outcome in the APA process, but rather to merely provide the facts to the decision makers. This makes clear what is expected of all parties. This subsection would not be included if the alternative in Section 12056 is adopted limiting the selection of an APA hearing to those cases where the Bureau has recommended denial.

Subsection (e) discusses the process at the end of an evidentiary hearing for the Commission to reach a decision. This provides guidance to the applicant and the Commission.

Subsection (f) clarifies that only the Executive Director or the Commission can delay or cancel any scheduled hearing date.

Adopt Section 12060. GCA Hearings

This proposed action would implement the evidentiary hearing process pursuant to sections 19870 and 19871. This process provides a clear method for the applicant to show the Commission that he or she meets the requirements of the Act and is of good character, honesty and integrity.

Subsection (a) creates a path for the Executive Director to schedule an application for a GCA hearing without an initial Bagley–Keene public meeting. The Commission still retains the option of sending a matter that has been scheduled for a GCA hearing to an APA hearing. This is intended to provide a more expeditious resolution of certain applications which would benefit all applicants and the public in general; and, it is also consistent with the spirit of the Act.

Subsection (b) provides guidelines for when the Commission elects to hold an evidentiary hearing pursuant to Section 12054. This is intended to provide a timeline that is accelerated when no documents or witness lists are being included.

Subsection (c) requires the Commission to designate a presiding officer who may be either a member of the Commission's legal staff or an Administrative Law Judge. This provides important clarification under the Act and a procedural requirement for the Commission.

Subsection (d) allows the applicant or the Bureau to request, in writing to the Executive Director, a continuation of the GCA hearing. This allows for a delay as

necessary to eliminate any potential burden on the parties and provides flexibility for the Commission.

Subsection (e) requires the Bureau and applicant to exchange certain information and documents in advance of the GCA hearing. The Bureau is required to exchange at least 45 days prior to the GCA hearing, while the applicant is required to exchange at least 30 days prior to the GCA hearing. This provides guidance to both parties as to procedure.

Subsection (f) provides that the presiding officer rules on the admissibility of evidence and that any ruling is final. This includes that relevant evidence will be admitted and that there are no applicable technical rules which would bar evidence from being admitted so long as reasonable persons would rely on it. This also includes when and how pre-hearing conferences may occur as well as what issues may be discussed during the conference. This provides guidance to both parties and the presiding officer.

Subsection (g) allows the Commission to prohibit the admission of certain evidence upon a showing of prejudice. This provides guidance to both parties so as to discourage certain potential discovery abuses for any potential advantage.

Subsection (h) requires the Bureau to commence the GCA hearing by presenting the facts and information in the Bureau's report, the background investigation, and the basis for any recommendation. The Bureau is not required to make any recommendation or seek any particular outcome, unless it so chooses, but simply to provide the Commission with the facts and law related to the application along with their background investigation so that the Commission can make an informed decision. This provides helpful procedural guidance to the Bureau and applicant.

Subsection (i) reiterates that the burden remains with the applicant to prove his or her suitability under the Act.

Subsection (j) makes clear that applicants may represent themselves or retain an attorney or lay representative. This is meant to identify the representation options for the evidentiary hearing proceeding.

Subsection (k) discusses the rights the Bureau or applicant has during a GCA hearing including calling witnesses, introducing documentary evidence, cross-examining witnesses, and impeaching witnesses. The applicant may also be called to testify. This provides helpful procedural guidance to the parties.

Subsection (l) requires that oral evidence be taken upon oath or affirmation, administered by the Executive Director, a member of the Commission, or an Administrative Law Judge. This provides helpful procedural guidance to all.

Subsection (m) discusses the process at the end of an evidentiary hearing for the Commission to reach a decision. This provides guidance to the parties.

Adopt Section 12062. Issuance of GCA Hearing Decisions

This proposed action describes the procedural method and requirements by which the Commission proposes its decision following a GCA evidentiary hearing.

Subsection (a) requires that a member of the Commission's legal staff will prepare and submit to the Commission a proposed decision with a detailed statement of reasons within 30 days of the conclusion of the hearing. This provides guidance to the parties and the Commission.

Subsection (b) requires the Commission to issue its decision, in compliance with section 19870, within 45 days of the issuance of the proposed decision. The decision shall be served upon the applicant at the applicant's address of record by certified mail. This provides guidance to the parties and the Commission.

Subsection (c) requires all decisions to specify an effective date and allows the inclusion of directions as to any stay provisions or orders to divest. This provides guidance to the parties and the Commission.

Subsection (d) restricts voting on the decision to only members of the Commission who heard the evidence presented in the hearing, unless such restriction would prevent the existence of a quorum. In such case, another member may be allowed to vote after a review of the record and any additional briefing or hearing deemed necessary. This provides guidance to the parties and the Commission.

Adopt Section 12064. Requests for Reconsideration

This proposed action defines the procedure by which an applicant can request reconsideration from the Commission after an evidentiary hearing but before any decision becomes final.

Subsection (a) allows an applicant to request reconsideration of an issued decision within 30 days of service of that decision.

Subsection (b) specifies the conditions under which an applicant may request reconsideration, based upon either newly discovered evidence or legal authorities that could not reasonably have been presented at the hearing or before the Commission's issuance of a decision; or, other good cause for which the Commission may decide, in its sole discretion, merits reconsideration.

Subsection (c) authorizes the Executive Director to initially determine whether a request for reconsideration is complete and should be placed on the Commission's agenda for consideration. This provides important guidelines for the handling of a request including

that the approved request is to be placed on the Commission's agenda within 60 days of its receipt, and requires the applicant to be given at least 10 days' advance notice of the Commission meeting at which the request will be considered. This paragraph also states that the applicant will be notified of the Commission's decision on the request within 10 days following the meeting.

Subsection (d) states that a decision will be stayed while the request is under review by the Commission.

Subsection (e) clarifies that the granting or denying of a reconsideration request shall be at the sole discretion of the Commission.

Adopt Section 12066. Final Decisions; Judicial Review

This proposed action provides procedural guidance to applicants related to when a decision of the Commission becomes final and what judicial remedy may be available.

Subsection (a) provides that a decision to withdraw or a finding of abandonment is final, upon either a decision by the Commission or 30 days after a notice of abandonment is issued by either the Executive Director or the Bureau.

Subsection (b) provides that the decision of the Commission following a GCA or APA hearing shall become final: 30 days after service of the decision, if reconsideration has not been granted; or immediately after the Commission affirms its decision or issues a reconsidered decision, if reconsideration has been granted.

Subsection (c) reiterates that the appeal by the applicant is subject to judicial review under Code of Civil Procedures section 1085.

Adopt Section 12068. Decisions Requiring Resignation or Divestiture

This proposed action relocates much of subsection (c) from former Section 12050 to this section. It remains in substantially the same form.

Repeal Section 12218.5. Withdrawal of Request to Convert Registration to License

This proposed action would repeal this section. With a reframing of general withdrawal provisions, this section is no longer needed.

Repeal Section 12234. Withdrawal of Request to Convert Registration to License

This proposed action would repeal this section. With a reframing of general withdrawal provisions, this section is no longer needed.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

The Commission has evaluated this regulatory action and determined that the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

The Commission is vested with jurisdiction and supervision over gambling establishments and over all persons or things having to do with the operations of gambling establishments in California. The scope and content of the Commission’s regulations is generally set forth in section 19841. As provided in subdivision (a) of section 19870, the Commission may approve or deny a license “. . . after considering the recommendation of the chief and any other testimony and written comments as may be presented at the meeting. . .” As provided in subdivision (a) of section 19871, “the Commission meeting described in Section 19870 shall be conducted in accordance with regulations of the commission. . .”. Those regulations that currently implement the Commission’s authority to establish hearing procedures are being amended in this proposal. The only equivalent process available to the Commission outside of its regulatory authority is provided in section 19825 which provides that “[t]he Commission may require that any matter that the Commission is authorized or required to consider in a hearing or meeting of an adjudicative nature regarding the denial. . .of a license. . .be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.”

While the Bureau [Department of Justice] has also been granted some authority to adopt regulations (section 19826), that authority is limited to the adoption of regulations reasonably related to its specified duties and responsibilities. These proposed regulations are not inconsistent or incompatible with any Bureau regulation (Title 11, CCR, Division 3), nor do they fall within the Bureau’s authority to adopt regulations.

COMPARABLE FEDERAL LAW

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

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE: None.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES: None.

MANDATE IMPOSED ON ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT: None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT: None.

EFFECT ON HOUSING COSTS: None.

IMPACT ON BUSINESS:

The Commission has made an initial determination that the adoption of these regulations would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This proposed action imposes no mandatory requirement on businesses. The regulation simply provides a clear process to follow once a party decides to exercise its right to submit an application for licensure by the Commission. While there may be some cost to a business by submitting an application, the cost would be at the discretion of the party. As the law currently requires a form of evidentiary hearing, and the proposed regulations simply codify the Commission’s current practice and procedure, there is no significant change in the burden of the process on affected businesses.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

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

EFFECT ON SMALL BUSINESS:

The Commission has determined that the proposed regulatory action may affect small businesses, if any affected gambling enterprise would qualify as a small business.

This proposal is applicable to only adjudicative meetings and hearings already being conducted by the Commission. These regulations would only be used by Commission staff, the Bureau of Gambling Control and applicants or their attorney of record. For applicants subject to an adjudicative proceeding, there is no requirement to obtain an attorney. The regulation simply provides applicants a clear process to follow to exercise their rights to request licensure and for the Commission to consider all relevant witnesses, information and documents.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California.

The basis for this determination is that this proposed action imposes no mandatory requirement on businesses or individuals and does not significantly change the Commission’s current practice and procedure. The

proposed action simply provides a clear process to follow once a party has decided to submit an application for Commission consideration.

BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of providing a clear evidentiary hearing procedure and *ex parte* guidelines. This evidentiary hearing process will help to provide applicants with a clear understanding of the process their application will follow, from review of the Bureau through consideration by the Commission at a non-evidentiary hearing through the evidentiary hearing process. Moreover, it will facilitate the production and presentation of all documents, testimony and other information which may be relevant and material to a Commission decision thereby enhancing the fairness of the decision and the legitimacy and transparency of the decision-making process.

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

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission 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 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.

INITIAL STATEMENT OF REASONS,
INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

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

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the backup contact person named below.

Upon its completion, the Final Statement of Reasons will also be available. A copy of the Final Statement of Reasons may be obtained, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Web site listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

James B. Allen, Manager
Regulatory Actions Unit
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-4024
Fax: (916) 263-0499
E-mail: jallen@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Joshua Rosenstein, Regulatory Actions Analyst
Regulatory Actions Unit
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 274-5823
Fax: (916) 263-0499
E-mail: jrosenstein@cgcc.ca.gov

WEB SITE ACCESS

Materials regarding this proposed action are also available on the Commission's Web site at www.cgcc.ca.gov.

TITLE 4. CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AMEND:

California Code of Regulations
 Title 4, Division 10, Chapter 2
 The Children’s Hospital Program of 2004

The California Health Facilities Financing Authority (Authority) proposes to adopt the amendments to regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Authority. Comments may also be submitted by facsimile (FAX) at (916) 654–5362 or email at chffa@treasurer.ca.gov. The written comment period closes at 5:00 p.m. on April 7, 2014. The Authority will consider only comments received at the Authority office by that time. Submit comments to:

Barbara Webster–Hawkins, Treasury Program
 Manager
 California Health Facilities Financing Authority
 915 Capitol Mall, Room 590
 Sacramento, CA 95814

AUTHORITY AND REFERENCE

Health and Safety Code sections 1179.11, 1179.22 and 1179.24 authorize the Authority to adopt the regulations, which implement, interpret and make specific sections 1179.10, 1179.11 and 1179.20 through 1179.25 of the Health and Safety Code.

On November 2, 2004, California voters passed Proposition 61, the Children’s Hospital Bond Act of 2004 (“Act”), chaptered as Health and Safety Code Sections 1179.10 through 1179.25, which enables the State of California to issue \$750 million in general obligation bonds to fund the Children’s Hospital Program (“Program”). The purpose of the Program is to improve the health and welfare of California’s critically ill children by providing a stable and ready source of funds for capital improvement projects for children’s hospitals. Children’s hospitals provide specialized care and treat the most serious and life–threatening diseases like childhood leukemia, cancer, heart defects, sickle cell anemia, diabetes and cystic fibrosis.

The Act authorized the State to sell \$750 million in general obligation bonds for grants for capital improvement projects. The money may be used for the construction, expansion, remodeling, renovation, furnishing, equipping, financing or refinancing of children’s hospitals.

The Act specifies that eighty percent of the total funds available for grants are to be awarded to nonprofit acute care hospitals that meet specified eligibility criteria during the fiscal year preceding June 29, 2002, including providing at least 160 licensed beds for infants and children. The following children’s hospitals meet the criteria:

1. Rady Children’s Hospital, San Diego
2. Children’s Hospital of Los Angeles
3. Children’s Hospital and Research Center at Oakland
4. Children’s Hospital of Orange County
5. Loma Linda University Children’s Hospital
6. Lucile Salter Packard Children’s Hospital at Stanford
7. Miller’s Children’s Hospital, Long Beach
8. Children’s Hospital Central California

Twenty percent of the total funds available for grants are to be awarded to the following University of California hospitals:

1. Mattel Children’s Hospital at University of California, Los Angeles
2. University Children’s Hospital at University of California, Irvine
3. University of California, Davis Children’s Hospital
4. University of California, San Diego Hospital Children’s Hospital
5. University of California, San Francisco Children’s Hospital.

California Code of Regulations, title 4, section 7030(w) specifies that during the First Funding Round (defined as the period of time prior to June 30, 2014), the nonprofit hospitals are eligible for grants up to \$74 million less costs of bond issuance, and the University of California hospitals are eligible for \$30 million less costs of issuance and administrative costs. The projects for which the hospitals may apply for grants must meet eligibility requirements. The Act authorized the California Health Facilities Financing Authority (CHFFA) to administer the program.

The Act provides that if grant funds have not been exhausted by June 30, 2014, those funds shall become available for an application from any eligible children's hospital insofar as the provisions for maintaining 80% for the eligible nonprofit hospitals and 20% for the University of California hospitals are maintained. California Code of Regulations, title 4, section 7042 provides that if there are any remaining funds after the First Funding Round, the Authority may, in its sole discretion, award these remaining funds in a manner consistent with the Program.

The amendments to the regulations proposed herein will provide for a Second Funding Round starting July 1, 2014 and expiring June 30, 2018. The purpose of the Second Funding Round is to ensure that all hospitals receive their respective maximum grant award amounts as originally established. Twelve of the thirteen hospitals have been awarded their maximum grant amounts to date.

Since grant funds, earned interest, or unused administrative funds may remain after the Second Funding Round, the proposed amendments provide for a Third Funding Round that may be further established in amendments to the regulations prior to June 1, 2018.

Specific benefits anticipated by the proposed amendments are: (1) improvement to the health and welfare of critically ill children who will be served by an improved and updated children's hospital; and (2) promotion of fairness through continuation of the original terms of the grant program for an additional four years.

After conducting a review for any similar regulations, the Authority has concluded that these are the only regulations dealing with the Children's Hospital Program of 2004. Therefore, the Authority has concluded that the proposed amendments are not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Authority 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 and 17630: None.

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

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

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

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

Significant effect on housing costs: None.

Small Business Determination: The proposed amendments to regulations do not affect small business as they do not place any obligation or regulatory requirement on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The benefit of the regulations to the health and welfare of California residents is that critically ill children will be served by an improved and updated children's hospital. If the grant application is submitted and the grant is awarded for the project that is currently being planned, seismic safety for workers at the affected hospital will be substantially enhanced. Neither benefits nor detriments are expected to the state's environment.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

In accordance with Government Code section 11346.5, subdivision (a)(13), the Authority must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of CHFFA would be more effective in carrying out the purpose for which the amendments to the regulations are 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 Authority invites interested persons to present statements or arguments with respect to alternatives to the proposed amendments to the regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Barbara Webster–Hawkins
California Health Facilities Financing Authority
915 Capitol Mall, Room 590
Sacramento, CA 95814
(916) 653–2799
Email: barbara.webster-hawkins@treasurer.ca.gov

The backup person for inquiries is:

Rosalind Brewer
Deputy Executive Director
California Health Facilities Financing Authority
915 Capitol Mall, Room 590
Sacramento, CA 95814
(916) 653–2799
Email: rosalind.brewer@treasurer.ca.gov

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

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

The Authority will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the amendments to the regulations and the initial statement of reasons.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After receiving and considering all timely and relevant comments received, the Authority may adopt the proposed amendments to the regulations substantially as described in this notice. If the Authority makes modifications that are sufficiently related to the originally proposed text of the amendments, it will make the mo-

dified text (with changes clearly indicated) available to the public for at least 15 days before the Authority adopts the amendments to the regulations as revised. Please send requests for copies of any modified amendments to the attention of Ms. Webster–Hawkins at the address indicated above. The Authority will accept written comments on the modified amendments to the regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Webster–Hawkins at the above address.

AVAILABILITY OF THE DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the amendments to the regulations in underline and strikethrough form can be accessed through the Authority’s website at <http://www.treasurer.ca.gov/chffa/hospital.asp>.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

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

Public Comments Due by April 7, 2014, at 5:00 p.m.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by email at jennifer.imalay-hardesty@post.ca.gov, or by letter to:

Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816–7083

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code Section 13506

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

POST is responsible for the development of test questions, creation of test forms, management of, and security requirements for, 64 Learning Domain, Mid-Term, and Final Tests. These tests are required for successful completion of the Regular Basic and Modular Format Courses, Specialized Investigators' Basic Course, Re-qualification Course, and PC832 Laws of Arrest Course. The development and management processes involve the use of subject matter resource groups to ensure the accuracy and validity of the material being tested and POST staff to ensure statewide applicability. This work is costly, time consuming, and labor intensive. The security of the test material is especially important. If one test is compromised, it affects all tests for each course and requires new questions to be developed and validated.

The implementation of these changes will greatly reduce the likelihood of test materials being compromised or misused by assuring that all presenters have an understanding of the sanctions related to cheating and compromising test material. These changes will help to ensure the continued integrity of entry-level law enforcement training and testing.

The specific benefits anticipated by the proposed changes to the regulations will be to promote fairness for all individuals taking POST Basic Course tests through stronger test management and security protocols. There would be no affect to benefits in regard to public health and safety, worker safety, or the environment, the prevention of discrimination, and the increase in openness and transparency in business and government.

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

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently

related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

ESTIMATE OF ECONOMIC IMPACT

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

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

Local Mandate: None.

Costs to any Local Agency or School District for which Government Code Sections 17500-17630 requires reimbursement: None.

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

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

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

ASSESSMENT

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing busi-

nesses or create or expand businesses in the State of California.

The benefits of the proposed amendments of regulations to the health and welfare of California residents would be to hold accountable those individuals involved in cheating who compromise the security of POST test materials and ensure the integrity of entry-level law enforcement training and testing. There would be no impact that would affect worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

To take this action, the Commission must determine that no reasonable alternative considered by the Commission 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 the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CONTACT PERSONS

Please direct inquiries about this proposed regulatory action to Jennifer Imlay-Hardesty, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, by email at jennifer.imlay-hardesty@post.ca.gov, or by telephone at (916) 227-3917. Patti Kaida is the contact person for questions on the regulatory process. Ms. Kaida is available by email at Patti.Kaida@post.ca.gov, by telephone at (916) 227-4847, or by FAX at (916) 227-5271.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST Website at <http://www.post.ca.gov/regulatory-actions.aspx>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for

public inspection by contacting the person(s) named above.

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

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Sections 5058 and 5058.3, proposes to amend Sections 3000, 3075.2, 3768.2, and 3768.3, and adopt Sections 3750, 3751, 3752, 3753, 3754, 3756, 3760, 3761, 3761.1, 3762, 3763, 3764, 3765, and 3766 of the California Code of Regulations (CCR), Title 15, Division 3 concerning Parole Revocation Realignment.

PUBLIC HEARING

Date and Time: **April 18, 2014— 10:00 a.m. to 11:00 a.m.**
Place: Department of Corrections and Rehabilitation
Kern Room
1515 S Street — North Building
Sacramento, CA 95811
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close **April 18, 2014, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883
Sacramento, CA 94283-0001
Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

R. Ruiz
Regulation and Policy Management Branch
Telephone (916) 445-2244

Questions regarding the substance of the proposed regulatory action should be directed to:

Clinton Brown or Denise Lebard
Division of Adult Parole Operations
(916) 324-3203 / (916) 327-1136

AUTHORITY AND REFERENCE

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

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

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to GC Section 11340.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The proposed regulations establish Department procedure necessary to implement current statute concerning Parole Revocation. The specific benefits anticipated with these regulations are greater transparency in State parole procedures and fair and consistent treatment of persons on parole concerning parole revocation resulting in greater public safety.

In developing the proposed regulations, the Department researched federal and state law concerning Parole Revocation and concluded that these regulations are not inconsistent or incompatible with existing regulations.

This action provides the following:

- Establishes Department procedure for parole supervision and parole revocation adjudication as provided for by Assembly Bill 109, the Public Safety Realignment Act (AB 109), which directs offenders with certain felony convictions to serve their time in a county jail rather than a state prison and places the jurisdiction for parole revocation adjudication with the county.
- Adopts definitions for the terms “California Law Enforcement Telecommunications System (CLETS),” “CalParole,” “Case Conference,” “Parole Administrator,” and “Parole Violation Disposition Tracking System (PVDTS),” and revises the definition for the term “Administrative Officer of the Day.”
- Establishes for use on a statewide basis the Parole Violation Disposition Tracking System (PVDTS). The PVDTS is an automated tracking system that will be utilized by the Department to track remedial sanctions, warrant requests, and petitions for parole revocation.
- Establishes in regulations statutory criteria for placing a parolee on a parole hold.
- Clarifies the Department’s legal jurisdiction of a parolee under specific circumstances throughout the parole revocation process, as provided for by statute.

FORMS INCORPORATED BY REFERENCE

- CDCR Form 1244 (Rev. 04/13), Parole Violation History
- CDCR Form 1500 (Rev. 05/13), Parole Violation Decision-Making Instrument
- CDCR Form 1502-B (Rev. 04/13), Probable Cause Determination
- CDCR Form 1515 (Rev. 04/13), Notice and Conditions of Parole
- CDCR Form 1515-Addendum (Rev. 04/13), Special Conditions of Parole
- CDCR Form 1521-B (Rev. 04/13), Criminal History
- CDCR Form 1676 (Rev. 04/13), Parole Violation Report
- CDCR Form 2271 (04/13), Notice and Request for Assistance During Parole Proceeding
- CDCR Form 2274 (04/13), After-Hours Warrant Tracking Form
- CDCR Form 2278 (04/13), Arrest Report
- Judicial Council of California form CR 300 (Rev. 11/13), Petition For Revocation
- Judicial Council of California form CR 301 (07/13), Warrant Request And Order
- Judicial Council of California form CR 302 (07/13), Request And Order To Recall Warrant

These documents are incorporated by reference into these regulations and will be made available to the public along with the Notice of Proposed Regulations, Text of Proposed Regulations, and Initial Statement of Reasons.

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The proposed regulatory action will provide guidance and clarity to CDCR staff and inmates by providing a directive concerning the Parole Revocation Adjudication processes as provided for by AB 109, ensuring statewide consistency and compliance with current statute. These regulations will ensure consistent and fair treatment on a statewide basis concerning parole revocation, and help to protect public safety by proactively processing the parolee population.

EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING REGULATIONS

The Department has determined that this action is not inconsistent or incompatible with existing State regulations. The proposed regulations are consistent with existing regulations in the CCR and comply with recently-amended statute governing Parole Revocation.

LOCAL MANDATES

The proposed regulatory action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district that is required to be reimbursed: *None.*
- Cost or savings to any state agency:
The Department's budget (BPH) was reduced by \$17,666,000 in 2012-13; \$32,785,747 in 2013-14; and \$2,000,000 in 2014-15.
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

EFFECT ON HOUSING COSTS

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESSES

It is determined that this action has no significant adverse economic impact on small business as these regulations describe Department procedure concerning parole revocation, and the offender or parolee populations do not have a significant impact on small businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulations will have an impact on the creation of new, or the elimination of existing, jobs within California as the jurisdiction for parole revocation adjudication of low-level felony offender and parolee populations will transfer from the State to the counties. Adjustments may be needed concerning staffing needs as there will be a reduction in State parole agents and an increase in county court personnel such as county court clerks to account for this shift in workload.

The Department has determined that the proposed regulations will not have an impact on the creation of new or the elimination of existing businesses within California, or affect the expansion of businesses currently doing business in California as the regulations establish Department procedure to ensure compliance with current parole revocation adjudication statutes. Subsequent impact will be peripheral, resulting only from any impact to California county court jobs as described.

The regulations promote worker safety and benefits the health and welfare of California residents by proac-

tively processing the parolee population released into the community.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be di-

rected to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter “the Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held from 9 a.m. to 12 p.m., April 9, 2014 in the Sequoia Room at the Board’s offices at 2420 Del Paso Road, Sacramento, California, 95834. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its offices not later than 5:00 p.m. on April 9, 2014 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 7312 and 7334(f) of the Business and Professions Code, and to implement, interpret or make specific Sections 7316(a), 7316(b), 7316(f), 7321.5(d)(2), 7321(d)(5), 7330(d)(3), 7332, 7334, 7336, 7362(b), 7362.5(a), 7362.5(b), 7366 and 7389 of the Business and Professions Code; and Section 3078 of the Labor Code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Section 7312 of the Business and Professions Code requires the Board make rules and regulations in aid or furtherance of the Barbering and Cosmetology Act, conduct and administer examinations for licensure and issue licenses to applicants that may be entitled thereto.

Adopt Sections 914.1 and 914.2

Section 7334 of the Business and Professions Code allows the Board to issue apprentice licenses in the fields of barbering, cosmetology, esthetics (or skin care), manicuring (or nail care), and electrology. These regulatory proposals will clarify the circumstances under which a person seeking licensure with the Board can participate in the Board’s apprenticeship program.

Amend Section 918

Sections 7332 and 7336 of the Business and Professions Code establish that an apprentice must train under the supervision and employment of a Board licensee. This regulatory proposal sets a limit for the number of apprentices a Board licensee can supervise at any given time.

Amend Sections 921, 921.1 and 921.2

Section 7334(f) of the Business and Professions Code mandates that apprentices complete at least the minimum number of instructional hours required of students in barbering, cosmetology and electrology schools; Sections 7316(a), 7316(b) and 7316(f) of the Business and Professions Code define the practice of barbering, cosmetology and electrology; Sections 7321(d)(2), 7321.5(d)(5) and 7330(d)(3) allow apprentices in barbering, cosmetology and electrology to sit for the Board’s examinations; Section 7362(b) of the Business and Professions Code mandates that the Board set in regulation the curriculums for barbering, cosmetology and electrology schools; Sections 7362.5(a), 7362.5(b), and 7366 set the minimum number of hours for barbering, cosmetology and electrology curriculums; Section 7389 requires that schools teach a Board–approved health and safety course on hazardous substances; Section 3078 of the Labor Code requires apprenticeship agreements describe the number of hours and subject matter. The current apprenticeship curriculums are no longer consistent with school curriculums, as required under Section 7334(f) of the Business and Professions Code, because of changes to the school curriculums that have been adopted by the Board in recent years. This regulatory proposal will restore parity between school and apprentice curriculums.

B. Policy Statement Overview/Anticipated Benefits of Proposal

Under Sections 7321(d)(5), 7321.5(d)(5) and 7330(d)(3) of the Business and Professions Code, the Board is required to admit persons who have completed a Board–approved apprenticeship in cosmetology, barbering and electrology to the licensing examination, provided they meet certain age and academic requirements. This regulatory proposal will close loopholes that have led to abuses of the apprenticeship program. It will also restore parity between apprenticeship and school curriculums.

C. Consistency and Compatibility with Existing State Regulations

After conducting a review of regulations that relate to or affect this area, the Board has determined that this regulatory proposal is not inconsistent or incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations will not affect small businesses because they are revisions of an existing program and educational requirements that have no associated economic cost.

**RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS**

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents by curtailing abuses of the apprenticeship program and improving the education and skills of barbers, cosmetologists and electrologists in California.

CONSIDERATION OF ALTERNATIVES

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 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 proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The Board has prepared an initial statement of the 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 any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be ob-

tained at the hearing or prior to the hearing upon request from the Contact Person named below.

**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 below.

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 below or by accessing the Web site listed below.

CONTACT PERSON

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

Name: Kevin Flanagan
 Address: 2420 Del Paso Road, Suite 100
 Sacramento, CA 95834
 Telephone No.: (916) 575-7100
 Fax No.: (916) 928-6810
 E-mail Address: Kevin.Flanagan@dca.ca.gov

The backup contact person is:

Name: Debra Brown
 Address: 2420 Del Paso Road, Suite 100
 Sacramento, CA 95834
 Telephone No.: (916) 575-7100
 Fax No.: (916) 928-6810
 E-mail Address: Debra.Brown@dca.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml.

**TITLE 16. BOARD OF BARBERING
AND COSMETOLOGY**

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter "the Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held from 9 a.m.-12 p.m., April 10, 2014 in the Sequoia Room at the Board's offices at 2420 Del Paso Road, Sacramento, California, 95834. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its offices not later than 5:00 p.m. on April 10, 2014 or must be received by the Board at the hearing. The

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

Authority and Reference: Pursuant to the authority vested by Sections 7312 and 7362 of the Business and Professions Code, and to implement, interpret or make specific Section 7367 of the Business and Professions Code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Repeal Sections 950.8 and 950.9

Section 7312 of the Business and Professions Code grants the Board the authority to conduct and administer licensing examinations; Section 7362 of the Business and Professions Code authorizes the Board to set the school curriculums for barbering and cosmetology students; Section 7367 of the Business and Professions Code defines how much credit the Board should give to students transferring from one course of study to another. This regulatory proposal would repeal the crossover courses that are now required for barbers to become cosmetologists and cosmetologists to become barbers because those courses in effect give applicants less credit for coursework than the Board is required to give under Section 7367 and conflict with another section of the California Code of Regulations, Section 950.10(a)(2).

B. Policy Statement Overview/Anticipated Benefits of Proposal

This proposed regulatory action brings the Board's regulations into compliance with Section 7367 of the Business and Professions Code. This will benefit barbers who want to become cosmetologists and vice versa, by making it easier and less time-consuming for them to learn the necessary skills. It may also make it easier for schools to cross-train cosmetologists and barbers because they no longer need to set up a special curriculum. Currently, only about one-quarter of

the state's 278 approved barbering and cosmetology schools offer either the barber or cosmetology crossover courses.

C. Consistency and Compatibility with Existing State Regulations

After conducting a review of regulations relating to school credit, the Board has determined that this regulatory proposal is not inconsistent or incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations will not affect small businesses because they are revisions to educational requirements that have no associated economic cost.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will not significantly benefit the health and welfare of California residents, worker safety, or the state's environment.

CONSIDERATION OF ALTERNATIVES

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 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 proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the 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 any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Contact Person named below.

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 below.

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 below or by accessing the Web site listed below.

CONTACT PERSON

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

Name: Kevin Flanagan
 Address: 2420 Del Paso Road, Suite 100
 Sacramento, CA 95834
 Telephone No.: (916) 575-7100
 Fax No.: (916) 928-6810
 E-mail Address: Kevin.Flanagan@dca.ca.gov

The backup contact person is:

Name: Debra Brown
 Address: 2420 Del Paso Road, Suite 100
 Sacramento, CA 95834
 Telephone No.: (916) 575-7100
 Fax No.: (916) 928-6810
 E-mail Address: Debra.Brown@dca.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml.

TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter “the Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held from 1 p.m. to 4 p.m., April 10, 2014 in the Sequoia Room at the Board’s offices at 2420 Del Paso Road, Sacramento, California, 95834. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its offices not later than 5:00 p.m. on April 10, 2014 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 7312 and 7406 of the Business and Professions Code, and to implement, interpret or make specific Sections 7312(e), 7316, 7320, 7320.1 of said Code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Section 7312 of the Business and Professions Code requires the Board to adopt rules governing sanitary conditions and precautions that are reasonably necessary to protect the public health in barbering and cosmetology establishments and schools, and in the practice of the professions regulated by the Board.

Adopt Section 977.

This regulatory proposal would add a section of definitions to Article 12, Division 9 of Title 16 of the California Code of Regulations.

Adopt Section 980.4.

This regulatory proposal would add regulations regarding the use of pedicure foot spa liners to Article 12, Division 9 of Title 16 of the California Code of Regulations.

Amend Sections 978, 979, 980, 980.1, 980.2, 980.3, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993 and 994.

These regulatory proposals would update, clarify and strengthen the Board’s existing health and safety regulations, as well as require, under the proposed amendments to Section 982, that electrolysis needles be single–use and disposable.

B. Policy Statement Overview/Anticipated Benefits of Proposal

Under Section 7303.1, the Board is mandated to make protection of the public its highest priority. The primary method by which the Board achieves this goal is by following its mandate under Section 7312 of the Business and Professions Code to formulate and enforce health and safety regulations. This regulatory action furthers that goal by updating, clarifying and strengthening existing regulations and adopting new regulations to reflect practical changes in the barbering and cosmetology industry.

These proposed regulatory changes will promote a better understanding of sanitary and safety practices among licensees. The health and safety standards of the said industries are maintained to prevent injury and ensure that transmittable diseases are controlled and prevented from spreading to consumers. Thus, these regulatory changes benefit the general welfare of California.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search for any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

This regulatory proposal would require that single–use, disposable electrolysis needles be used by electrologists. These types of needles cost approximately 50 cents each.

The Board has determined that the practical impact of these requirements will be negligible because of the needles’ low cost and because most of the State’s approximately 1,600 licensed electrologists already use these implements, which are recommended by the American Electrology Association, the electrologists’ professional organization.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not have a negative effect on small businesses because these regulatory proposals are mostly updates or clarifications of existing rules that have no associated economic

cost. While there is a small cost associated with the requirements that electrologists use single-use, disposable electrolysis needles, the Board has determined the practical impact on small business will be minor because the requirements mirror the recommendations of the American Electrology Association, which are already widely followed in the industry.

**RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS**

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety and the state's environment:

By clarifying and updating its health and safety regulations to reflect changes in the Barbering and Cosmetology industry, the Board enhances its primary mission of protecting the public.

CONSIDERATION OF ALTERNATIVES

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 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 proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearings.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The Board has prepared an initial statement of the 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 any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Contact Person named below.

**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 below.

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 below or by accessing the Web site listed below.

CONTACT PERSON

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

Name: Kevin Flanagan
 Address: 2420 Del Paso Road, Suite 100
 Sacramento, CA 95834
 Telephone No.: (916) 575-7100
 Fax No.: (916) 928-6810
 E-mail Address: Kevin.Flanagan@dca.ca.gov

The backup contact person is:

Name: Debra Brown
 Address: 2420 Del Paso Road, Suite 100
 Sacramento, CA 95834
 Telephone No.: (916) 575-7100
 Fax No.: (916) 928-6810
 E-mail Address: Debra.Brown@dca.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml.

**TITLE 16. BOARD OF BARBERING
AND COSMETOLOGY**

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter "the Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held from 1 p.m. to 4 p.m. on April 9, 2014 in the Sequoia Room at the

Board's offices at 2420 Del Paso Road, Sacramento, California, 95834. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its offices not later than 5:00 p.m. on April 9, 2014 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 7312 of the Business and Professions Code, and to implement, interpret or make specific Section 7362 of the Business and Professions Code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Amend Section 950.2

Section 7362 of the Business and Professions Code requires the Board to determine by regulation the school curriculum for each of the professions it regulates, including cosmetology. This regulatory proposal clarifies that eyebrow and lash tinting should only be taught as part of a cosmetology school's curriculum if a product is available that isn't disapproved*, prohibited or banned by the U.S. Food and Drug Administration (FDA), the Occupational Safety and Health Administration (OSHA), or the U.S. Environmental Protection Agency (EPA).

Amend Section 950.9

Section 7362 of the Business and Professions Code requires the Board to determine by regulation the school curriculum for each of the professions it regulates, including cosmetology. This regulatory proposal clarifies that eyebrow and lash tinting should only be taught as part of a cosmetology school's crossover curriculum if a product is available that isn't disapproved, prohibited or banned by the U.S. Food and Drug

Administration, the Occupational Safety and Health Administration, or the U.S. Environmental Protection Agency.

B. Policy Statement Overview/Anticipated Benefits of Proposal

Section 7362 of the Business and Professions Code requires the Board to determine by regulation the school curriculum for each of the professions it regulates, including cosmetology. This proposed regulatory change clarifies that the eyebrow and lash tinting component of the cosmetology and crossover curriculums should only be taught if a product is available that isn't disapproved, prohibited or banned by the U.S. Food and Drug Administration, the Occupational Safety and Health Administration, or the U.S. Environmental Protection Agency. The benefit will be that the Board will be in compliance with federal regulatory entities and eliminate confusion among the schools regarding whether brow and lash tinting should be taught.

C. Consistency and Compatibility with Existing State Regulations

After conducting a review for any regulations that would relate to or affect this area, the Board has evaluated this regulatory proposal and it is not inconsistent or incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

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

* The FDA does not "approve" products, but will disapprove of certain substances and/or how they are used.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations will not affect small businesses because they are revisions of an existing program and educational requirements that have no associated economic cost.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents by reinforcing the Board's prohibition against using products that are not approved by the FDA.

CONSIDERATION OF ALTERNATIVES

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 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 proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the 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 any document incorporated by reference, and

of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Contact Person named below.

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 below.

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 below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Kevin Flanagan
Address: 2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 575-7100
Fax No.: (916) 928-6810
E-Mail Address: Kevin.Flanagan@dca.ca.gov

The backup contact person is:

Name: Debra Brown
Address: 2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 575-7100
Fax No.: (916) 928-6810
E-Mail Address: Debra.Brown@dca.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml.

TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES

ORD#0713-08

ITEM # 2: Assembly Bill (AB) 1166 (Chapter 312, Statutes of 2003), Adult Residential Facility (ARF), Hospice Terminally Ill

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held April 9, 2014, as follows:

Office Building # 8
744 P St. Room 103
Sacramento, California

CHAPTER

Title 22, Chapter 85000

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on April 9, 2014.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

CONTACT: Office of Regulations
Development
California Department of Social
Services
744 P Street, MS 8-4-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

AB 1961 amended Health and Safety (H&S) Code section 1569.73 to allow for the acceptance of terminally ill persons already receiving hospice care into a Residential Care Facility for the Elderly (RCFE). AB 1166 affected both ARFs and RCFEs respectively by amending H&S Code sections 1507.3 and 1569.74 to accept a terminally ill person already receiving hospice care into an ARF and to allow licensees in both facility types to contact the hospice agency in lieu of calling 9-1-1 during an emergency situation for hospice terminally ill client/residents under certain conditions. The regulations also incorporate prohibited health conditions into the hospice care plan and hospice waiver. Similarly, the ARF regulations incorporate restricted and prohibited health conditions into the hospice care plan and the hospice waiver.

The proposed regulations amended several ARF sections in Title 22, such as the definition of and services allowed by the Facility Hospice Care Waiver, Hospice Care and the honoring of advance directives and/or requests regarding resuscitative measures.

The benefits of the regulatory action to the health and welfare of the terminally ill residents is to acknowledge the relationship between the individual and the hospice agency when the individual is actively dying and has elected to not be resuscitated as well as providing for a continuation of hospice care for individuals who elect to enter a residential care facility.

The CDSS considered any other possible related regulations, and we find that these are the only regulations dealing in this subject area (Hospice Terminally Ill, Adult Residential Facility), and therefore, CDSS finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting AB 1166, as well as with existing state regulations.

The regulations further meet all the requirements established in statute as they pertain to ARFs to implement the provisions of AB 1166.

COST ESTIMATE

1. Costs or Savings to State Agencies: These regulation changes do not result in local assistance costs to the state.

2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500–17630: These regulation changes do not result in costs to local agencies or school districts.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: These regulation changes do not result in local assistance costs to the federal government.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS does not collect data on the number of individuals receiving hospice care in licensed facilities or the number of calls made to emergency response services. The CDSS initially determines that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

SMALL BUSINESS IMPACT STATEMENT

The CDSS initially determines that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The benefits of the regulatory action will allow services

be given to terminally ill clients with restricted and/or prohibited health conditions through a hospice waiver.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are 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.

AUTHORITY AND REFERENCE CITATIONS

Sections 1530 and 1562.3(i) of the H&S Code grants CDSS the authority to develop the regulations and Section 1507.3 is being referenced to make the regulations more specific.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Oliver Chu
(916) 657-2586

Backup: Zaid Dominguez
(916) 657-2586

TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES

ORD#0713-07

ITEM # 1: Assembly Bill (AB) 1961 (Chapter 109, Statutes of 2002), Residential Care Facilities for the Elderly (RCFE) Hospice Care, Terminally Ill Persons

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held April 9, 2014 as follows:

Office Building # 8
744 P St. Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are present-

ing testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on April 9, 2014.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

CONTACT: Office of Regulations
Development
California Department of Social
Services
744 P Street, MS 8-4-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

Title 22, Chapters 87400 and 87600.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

AB 1961 amended Health and Safety (H&S) Code section 1569.73 to allow for the acceptance of terminally ill persons already receiving hospice care into an RCFE. AB 1166 affected both Adult Residential Facilities (ARFs) and RCFEs respectively by amending H&S Code sections 1507.3 and 1569.74 to accept a terminally ill person already receiving hospice care into an ARF and to allow licensees in both facility types to contact the hospice agency in lieu of calling 9-1-1 during an emergency situation for hospice terminally ill client/residents under certain conditions. The regulations also incorporate prohibited health conditions into the hospice care plan and hospice waiver. Similarly, the ARF regulations incorporate restricted and prohibited health conditions into the hospice care plan and the hospice waiver.

The benefits of the regulatory action to the health and welfare of terminally ill individuals already receiving hospice care into an RCFE will provide the option for RCFE licensees to notify a terminally ill resident's hospice agency in lieu of calling 9-1-1 during a life-threatening emergency related to the terminal illness for residents with an advance directive or request regarding resuscitative measures.

The CDSS considered any other possible related regulations, and we find that these are the only regulations dealing in this subject area (Hospice Terminally Ill, Residential Care Facilities for the Elderly [RCFE]), and therefore, CDSS finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting AB 1961 and AB 1166, as well as with existing state regulations.

COST ESTIMATE

1. Costs or Savings to State Agencies: These regulation changes do not result in local assistance costs to the state.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code sections 17500-17630: These regulation changes do not result in local assistance costs to the counties or school districts.
3. Nondiscretionary Costs or Savings to Local Agencies: There are no local assistance costs associated with this change.
4. Federal Funding to State Agencies: These regulation changes do not result in local assistance costs to the federal government.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. There are no “state–mandated local costs” in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has no data on the number of individuals receiving hospice care in licensed facilities or the number of calls made to emergency response services. The CDSS has made an initial determination that the proposed action has no apparent additional cost impacts to individuals or facilities and will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

SMALL BUSINESS IMPACT STATEMENT

The CDSS must determine that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The benefits of the regulatory action allow residential care facilities to allow terminally ill residents already receiving hospice care services to be admitted and care to be provided to those with prohibited health conditions through a hospice waiver.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are 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.

AUTHORITY AND REFERENCE CITATIONS

Section 1569.30 of the H&S Code grants CDSS the authority to develop the regulations and Sections 1569.73 and 1569.74 are being referenced to make the regulations more specific.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

Oliver Chu: (916) 657–2586
Zaid Dominguez: (916) 657–2586

GENERAL PUBLIC INTEREST

BOARD OF PHARMACY

NOTICE OF CALIFORNIA’S E–PEDIGREE LAW PREEMPTED

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (Board), pursuant to Business and Professions Code section 4034.1, which provides in pertinent part that “[u]pon the effective date of federal legislation . . . addressing pedigree or serialization measures for dangerous drugs, Sections 4034, 4163(c)–(g), 4163.1, 4163.2, 4163.4, and 4163.5 shall become inoperative,” and which requires that within 90 days of the enactment of such legislation the board publish a notice regarding the invalidation of these statutes, the California State Board of Pharmacy is hereby publishing notice that federal legislation meeting the requirements of section 4034.1 has been enacted, and that Business and

Professions Code sections 4034, 4163, 4163.1, 4163.2, 4163.4, and 4163.5 became inoperative as of November 27, 2013.

For additional information, contact:

Debbie Damoth, Administration and Regulations
Manager
California State Board of Pharmacy
1625 N. Market Blvd., Suite N219
Sacramento, CA 95834
Telephone: (916) 574-7935
Fax: (916) 574-7917
E-mail: Debbie.Damoth@dca.ca.gov

DETERMINATION ISSUED PURSUANT TO GOVERNMENT CODE SECTION 11340.5.

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule meets the definition of “regulation” as defined in Government Code section 11342.600 and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of “regulation,” but was not adopted pursuant to the APA and should have been, it is an “underground regulation” as defined in California Code of Regulations, title 1, section 250.¹ OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

CHALLENGED RULE

At issue is whether a Fact Sheet titled “Qualified Storm Water Pollution Prevention Plan Developer (QSD) Training Program for Professionals Licensed by the California Board of Professional Engineers, Land Surveyors and Geologists” (Fact Sheet), issued by the State Water Resources Control Board (Board) is an underground regulation. The Fact Sheet is attached as Exhibit A.

DETERMINATION

OAL determines that the Fact Sheet meets the definition of “regulation” but that it is exempt from the rule-making requirements of the APA pursuant to Government Code section 11352.

FACTUAL BACKGROUND

On August 2, 2013, OAL received a petition from Maureen Daggett (Petitioner), alleging that the Board

¹ As defined by title 1, section 250(a), “Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

OAL REGULATORY DETERMINATION

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATIONS (Summary Disposition)

(Pursuant to Government Code Section 11340.5 and Title 1, section 270, of the California Code of Regulations)

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

STATE WATER RESOURCES CONTROL BOARD

2014 OAL DETERMINATION NO.4 (OAL FILE NO. CTU2013-0802-01)

REQUESTED BY: MAUREEN DAGGETT
CONCERNING: Fact Sheet issued by the State Water Resources Control Board titled: “Qualified Storm Water Pollution Prevention Plan Developer (QSD) Training Program for Professionals Licensed by the California Board of Professional Engineers, Land Surveyors and Geologists”

issued, used, enforced or attempted to enforce an underground regulation. The petition alleges that the Fact Sheet issued by the Board on July 2, 2013, implements alternative Qualified Stormwater Pollution Prevention Plan Developer (QSD) training and qualifications certification criteria for California Board of Professional Engineers, Land Surveyors and Geologists licensed professionals, among other things.

The Fact Sheet at issue added a new training program to the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009–0009–DWQ) (Permit). The Permit was adopted by the Board after public hearing and comment on September 2, 2009, and effective on July 1, 2010. A copy of the Permit is attached as Exhibit B.

The Permit regulates discharges of pollutants in storm water associated with construction activity (storm water discharges) to waters of the United States from construction sites that “disturb one or more acres of land surface, or that are part of a common plan of development or sale that disturbs more than one acre of land surface.” (Exhibit B, page 2.) It is a Construction General Permit which contains a requirement for each permittee to implement a Storm Water Pollution Prevention Plan (SWPPP). (Exhibit B, page 12.) The SWPPP must be written and certified by a QSD. (Exhibit B, page 32–33.) Pursuant to the Permit, “[i]n order to improve compliance with and to maintain consistent enforcement of this [Permit], all dischargers are required to appoint two positions — the Qualified SWPPP Developer (QSD) and the Qualified SWPPP Practitioner (QSP) — who must obtain appropriate training.” (Exhibit B, page 7.) The QSD must have one of eight specified professional licenses or certifications and must attend a Board sponsored or approved training course within two years after the effective date of the Permit. (Exhibit B, page 32–33.)

The details of the training component were not initially identified in the Permit but were to be developed in collaboration with key stakeholders, the Board and Regional Water Boards. The Board alleges and Petitioner does not dispute, that QSD training exists solely for the purpose of complying with the Permit. On July 2, 2013, the Board issued the Fact Sheet. Petitioner alleges that the issuance of the Fact Sheet was an amendment of the Permit and was not pursuant to public notice or comment, was not adopted by the *members* of the Board and is therefore an underground regulation. Petitioner further alleges that during the public comment period for the adoption of the Permit, several workshops were held and the qualifications and certification process for the QSD were discussed. The qualifications required a 2–3 day training course with a written exam and a minimum

passing grade of 70% or better. Among other things, the Fact Sheet provides for alternative training and qualifications for a QSD if the QSD is already a licensed professional in good standing with the California Board of Professional Engineers, Land Surveyors and Geologists. The alternative process articulated in the Fact Sheet was never presented to the public according to the Petitioner, and was later issued by the Board staff without adoption by the members of the Board after having had the appropriate hearings that are required by various federal and state laws. The Fact Sheet provides for an “alternative,” less stringent certification process for California Board of Professional Engineers, Land Surveyors and Geologists licensed professionals. The Board acknowledges that the *members* of the Board did not adopt the Fact Sheet, but that the Fact Sheet was issued by Board staff.

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides that:

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

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of Government Code section 11340.5 it creates an underground regulation as defined in title 1, California Code of Regulations, section 250.

OAL may issue a determination as to whether or not an agency has issued, utilized, enforced, or attempted to enforce a rule that meets the definition of “regulation” as defined in Government Code section 11342.600 and should have been adopted pursuant to the APA (Gov. Code sec.11340(b)). An OAL determination is not enforceable against the agency through any formal administrative means, but it is entitled to “due deference” in any subsequent litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422 [268 Cal.Rptr. 244].

ANALYSIS

OAL’s authority to issue a determination extends only to the limited question of whether the challenged rule is a “regulation” subject to the APA. This analysis will determine (1) whether the challenged rule is a “reg-

ulation” within the meaning of Government Code section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

A regulation is defined in Government Code section 11342.600 as:

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

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571 [59 Cal.Rptr.2d 186], the California Supreme Court found that:

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency’s procedure (Gov. Code, § 11342, subd. (g)).²

As stated in *Tidewater*, the first element used to identify a “regulation” is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the state of California. It is sufficient if the rule applies to a clearly defined class of persons or situations.³

The rules articulated in the Fact Sheet concern the qualifications required to be a QSD so as to implement and certify the SWPPP for the Permit. Therefore, the rule affects the defined class of all persons who seek to meet the qualifications for being a QSD and the first element is met.

The second element used to identify a “regulation” as stated in *Tidewater* is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency’s procedure.

Water Code section 13377 states:

Notwithstanding any other provision of this division, the state board or the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge requirements and dredged or fill

material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.

This matter concerns the qualifications for QSDs who certify the plans for the waste discharge permittees. It is undisputed that the Federal Water Pollution Control Act provides for the Board to issue waste discharge requirements. The Board is therefore implementing, interpreting and making specific Water Code section 13377 when issuing waste discharge requirements as reflected in the Permit and Fact Sheet.

The Fact Sheet, therefore, meets the definition of “regulation” in Government Code section 11342.600.

The final issue to examine is whether the challenged rule falls within an express statutory exemption from the APA. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies. Exemptions may also be specific to a particular rulemaking agency or a specific program. Pursuant to Government Code section 11346, the procedural requirements established in the APA “shall not be superseded or modified by any subsequent legislation *except to the extent that the legislation shall do so expressly.*” (Emphasis added.)

Government Code section 11352 sets forth exemptions to the APA. It states:

The following actions are not subject to this chapter:

(a) The issuance, denial, or waiver of any water quality certification as authorized under Section 13160 of the Water Code.

(b) The issuance, denial, or revocation of waste discharge requirements and permits pursuant to Sections 13263 and 13377 of the Water Code and waivers issued pursuant to Section 13269 of the Water Code.

(c) The development, issuance, and use of the guidance document pursuant to Section 13383.7 of the Water Code. [Emphasis added.]

The Fact Sheet contains the qualifications for a QSD to certify the SWPPP for the Permit. It is an integral part of the waste discharge requirements of the Permit. The Permit states that it is the: “Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities.” (Exhibit B, page 1.) Both Petitioner and the Board agree that the Fact Sheet contains further requirements concerning the Permit. Therefore, the Fact Sheet concerns the “issuance, denial, or revocation of waste

² Section 11342(g) was re-numbered in 2000 to section 11342.600 without substantive change.

³ See also *Roth v. Department Of Veterans Affairs*, (1980) 110 Cal.App.3d 14, 19; 167 Cal.Rptr. 552, 557.

discharge requirements and permits pursuant to [Section]. . . 13377 of the Water Code.”

As such, the Fact Sheet is exempt from Chapter 3.5 of the APA pursuant to the exemption contained in Government Code section 11352 and is not required to be adopted pursuant to the APA.

AGENCY RESPONSE

On November 25, 2013, OAL received the Board’s response to the petition. The response refuted the petition by stating:

1. The Fact Sheet is not inconsistent with the type of training the Board described during workshops on the Permit.
2. The Permit is not a regulation subject to the APA.
3. The Board did not violate the APA by adopting the Fact Sheet in that it was not a significant modification of the Permit in that the Permit stated that the training would be developed later with a task force, and it was.
4. The appropriate avenue to contest the Fact Sheet was to file a writ of administrative mandamus.

As noted above, our review is limited to the sole issue of whether the challenged rule meets the definition of “regulation” as defined in Government Code section 11342.600 and is subject to the APA. The foregoing analysis addressed whether the Fact Sheet was a regulation subject to the rulemaking provisions of the APA, to which OAL concluded the Fact Sheet was exempt from the APA. The issue of whether a writ of administrative mandamus was a proper avenue to contest the Fact Sheet is not a proper subject for OAL review. If a violation of law other than the APA occurred, it is a matter for an entity other than OAL.

PETITIONER’S REBUTTAL

On December 10, 2013, OAL received Petitioner’s rebuttal to the Board’s response. The rebuttal asserts that the promulgation of the Fact Sheet was in fact a regulation as defined by section 11342.600 of the Government Code and that the Board did not properly incorporate the Fact Sheet into the Permit as they did not follow the mandatory procedures requiring public notice and input as contained in both the Porter–Cologne Act and 40 CFR 122. As stated above, OAL has found that the

Fact Sheet is a regulation; however, it is expressly exempt from adoption pursuant to the APA by Government Code section 11352, subdivision (b). Any other violation of federal or state law that may have occurred is not an issue that OAL has authority to address.

CONCLUSION

In accordance with the above analysis, OAL determines that the Fact Sheet meets the definition of “regulation” and that it is exempt from adoption pursuant to the APA by Government Code section 11352, subdivision (b).

Date: February 5, 2014

/s/
Debra M. Cornez
Director

/s/
Elizabeth A. Heidig
Senior Counsel

cc:
Thomas Howard, Executive Director
Michael Lauffer, Chief Counsel

**SUSPENSION OF
ACTION REGARDING
UNDERGROUND REGULATIONS**

**DIVISION OF OCCUPATIONAL SAFETY
AND HEALTH STANDARDS**

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

On December 16, 2013, the Office of Administrative Law (OAL) received a petition challenging an October 30, 2013, memorandum regarding Zip Lines Operating in California issued by the Division of Occupational Safety and Health Standards (Cal–OSHA) as an alleged underground regulation.

On February 3, 2014, Cal–OSHA certified to OAL that the memorandum dated October 30, 2013, would not be issued, used, enforced or attempted to be enforced. Therefore, pursuant to title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

File# 2014-0127-01

BOARD OF EDUCATION

Local Control Funding Formula and Local Control and Accountability Plan

This regulatory action governs the expenditures of funds apportioned to a local education area (LEA) on the basis of the number and concentration of unduplicated pupils. It implements the Local Control Funding Formula and establishes a template to be used by the LEA to prepare a Local Control and Accountability Plan which describes annual goals, actions to achieve those goals and expenditures to implement the actions.

Title 5

California Code of Regulations

ADOPT: 15494, 15495, 15496, 15497

Filed 02/06/2014

Effective 02/06/2014

Agency Contact: Hillary Wirick (916) 319-0644

File# 2014-0107-01

BOARD OF FORESTRY AND FIRE PROTECTION

Annual SRA Fee Adjustment Per PRC § 4212b

This action increases the current State Responsibility Area fee amount by \$2.33 pursuant to the Public Resources Code section 4212(b) requirement to annually adjust this fee to reflect the percentage change in the average annual value of the

Implicit Price Deflator for State and Local Government Purchases of Good and Services for the United States, as calculated by the U.S. Department of Commerce for the 12-month period in the third quarter of the prior calendar year, as reported by the Department of Finance.

Title 14

California Code of Regulations

AMEND: 1665.6(b)

Filed 02/06/2014

Agency Contact: Eric Huff (916) 653-9633

File# 2014-0116-01

BUREAU OF REAL ESTATE APPRAISERS

Real Estate Appraisers

This action without regulatory effect amends multiple sections in Title 10 of the California Code of Regulations. The Governor's Reorganization Plan No. 2 of 2012 renamed the "Office of Real Estate Appraisers" to the "Bureau of Real Estate Appraisers" and renamed the "Director" to the "Chief." These title changes did not materially affect the authority or duties of the Bureau or the Chief, however, the reorganization placed the Bureau under the supervision and control of the Department of Consumer Affairs. This action without regulatory effect makes conforming changes to regulations by changing "Office" to "Bureau," "Director" to "Chief," and "OREA" to "BREA."

Title 10

California Code of Regulations

AMEND: 3500, 3523, 3525, 3527, 3528, 3529, 3530, 3541, 3542, 3543, 3561, 3563, 3565, 3568, 3569, 3570, 3571, 3575, 3576, 3577, 3581, 3582, 3601, 3602, 3603, 3621, 3661, 3662, 3663, 3664, 3665, 3666, 3668, 3681, 3702, 3704, 3721, 3723, 3724, 3725, 3726, 3728, 3729, 3730, 3732, 3741, 3761

Filed 02/11/2014

Agency Contact: Alec Stone (916) 341-6126

File# 2014-0123-01

CALIFORNIA CHILDREN AND FAMILIES COMMISSION

Conflict-of-Interest Code

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

Title 2

California Code of Regulations

AMEND: 58000

Filed 02/10/2014

Effective 03/12/2014

Agency Contact: Kellie Westley (916) 263-1092

File# 2014-0129-01

CALIFORNIA HEALTH BENEFIT EXCHANGE

Enrollment Assistance

This re-adoption of emergency rulemaking action number 2013-0705-01E by the California Health Benefit Exchange establishes the Enrollment Assistance program (Program) within title 10 of the California Code of Regulations. These regulations include eligibility standards, application requirements, and other guidelines for individuals and entities to participate in the Program. These regulations also establish eligibil-

ity requirements for the Navigator program and incorporate the Request for Application form by reference.

Title 10
 California Code of Regulations
 ADOPT: 6650, 6652, 6654, 6656, 6657, 6658, 6660, 6662, 6664, 6666, 6668, 6670
 Filed 02/10/2014
 Effective 02/10/2014
 Agency Contact: Daniel Eliav (916) 323-3470

File# 2014-0107-06
 COMMISSION ON TEACHER CREDENTIALING
 Cost Recovery Fees for Accreditation Activities

The Commission on Teacher Credentialing submitted this timely Certificate of Compliance to make permanent the emergency regulations adopted in OAL file no. 2013-1015-08E. That action amended Title 5 of the California Code of Regulations to adopt sections 80691 and 80692 regarding cost recovery fees for accreditation activities performed by the Commission and implements Education Code section 44374.5.

Title 5
 California Code of Regulations
 ADOPT: 80691, 80692
 Filed 02/05/2014
 Effective 02/05/2014
 Agency Contact:
 Tammy A. Duggan (916) 323-5354

File# 2014-0117-01
 DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Parole Revocation Realignment

In these emergency regulations, the Department is adopting and amending various sections in title 15 of the California Code of Regulations to comply with Assembly Bill 109, which re-directs low-level felony offenders and reforms parole. The regulations add a number of definitions, update existing forms, introduce new forms, and elaborate on the new procedures imposed by the new criminal justice laws related to the Criminal Justice Realignment.

Title 15
 California Code of Regulations
 ADOPT: 3750, 3751, 3752, 3753, 3754, 3756, 3760, 3761, 3761.1, 3762, 3763, 3764, 3765, 3766
 AMEND: 3000, 3075.2, 3768.2, 3768.3
 Filed 02/06/2014
 Effective 02/06/2014
 Agency Contact: Rosie Ruiz (916) 445-2309

File# 2014-0121-05
 DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Long Term Offender Pilot Program

This action adopts the Long Term Offender Pilot Program. Pursuant to Penal Code section 5058.1, this action is exempt from OAL review.

Title 15
 California Code of Regulations
 ADOPT: 3999.15
 Filed 02/11/2014
 Effective 02/11/2014
 Agency Contact: Josh Jugum (916) 445-2228

File# 2014-0122-02
 DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Pilot Program — Institutional Use of Force Reviews

This action adopts the Institutional Use of Force Review Pilot Program. Pursuant to Penal Code section 5058.1, this action is exempt from OAL review.

Title 15
 California Code of Regulations
 ADOPT: 3999.16
 Filed 02/11/2014
 Effective 02/11/2014
 Agency Contact: Anthony Carter (916) 445-2220

File# 2014-0131-03
 DEPARTMENT OF FOOD AND AGRICULTURE
 Asian Citrus Psyllid Interior Quarantine

This emergency regulatory action amends the area under interior quarantine in Kern and Tulare Counties for the Asian Citrus Psyllid.

Title 3
 California Code of Regulations
 AMEND: 3435(b)
 Filed 02/05/2014
 Effective 02/05/2014
 Agency Contact: Lindsay Rains (916) 654-1017

File# 2014-0123-04
 DEPARTMENT OF FOOD AND AGRICULTURE
 Oak Mortality Disease Control

This is the certificate of compliance to make permanent the prior emergency regulatory action (OAL file no. 2013-1104-02E) that established Gaultheria procumbens (wintergreen, Eastern teaberry and boxberry) as an associated article under the articles and commodities covered by Section 3700. The effect of the amendment provided authority to the State to regulate the movement of this new “associated article (nursery stock)” to prevent artificial spread of oak mortality dis-

ease to non-infested areas. These plants were added to the list of plants whose movements are regulated as hosts or potential carriers that may transfer the disease from an infested area.

Title 3
California Code of Regulations
AMEND: 3700(c)
Filed 02/12/2014
Effective 02/12/2014
Agency Contact: Stephen S. Brown (916) 654-1017

File# 2014-0121-03
DEPARTMENT OF FOOD AND AGRICULTURE
Section 3435 Asian Citrus Psyllid Interior Quarantine

This certificate of compliance makes permanent the prior emergency regulatory action (OAL file no. 2013-0729-02E) that added approximately 178 square miles in Tulare County to the quarantine area for the Asian Citrus Psyllid (ACP) *Diaphorina citri*. The effect of the amendment provides authority for the state to perform quarantine activities against ACP within this additional area, along with the existing regulated areas in the entire counties of Imperial, Los Angeles, Orange, San Bernardino, San Diego, Santa Barbara, Riverside and Ventura, totaling approximately 45,616 square miles.

Title 3
California Code of Regulations
AMEND: 3435(b)
Filed 02/10/2014
Effective 02/10/2014
Agency Contact: Lindsay Rains (916) 654-1017

File# 2013-1220-01
DIVISION OF WORKERS' COMPENSATION
Workers' Compensation — Supplement Job Displacement Benefit

This change without regulatory effect removes the Division of Workers' Compensation agency logo from four forms, allowing users to print the forms with their own logos if desired.

Title 8
California Code of Regulations
AMEND: 10133.32, 10133.33, 10133.35, 10133.36
Filed 02/05/2014
Agency Contact: Carol N. Finuliar (415) 286-0660

File# 2013-1230-04
DIVISION OF WORKERS' COMPENSATION
Workers' Compensation — Utilization Review, Independent Medical Review

The Division of Workers' Compensation submitted a certificate of compliance for emergency regulations adopting new sections 9785.5, 9792.6.1, and 9792.10.1 through 9792.10.9 and amending sections 9785, 9792.6, 9792.10, and 9792.12 of title 8 of the California Code of Regulations concerning utilization review and providing for independent medical review in order to implement changes made to the Labor Code on January 1, 2013 by Senate Bill 863. This certificate of compliance also amends sections 9792.7, 9792.11, and 9792.15 of title 8 of the California Code of Regulations.

Title 8
California Code of Regulations
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, 9792.7, 9792.9, 9792.10, 9792.11, 9792.12, 9792.15
Filed 02/12/2014
Effective 02/12/2014
Agency Contact: George Parisotto (510) 286-0639

File# 2013-1230-05
DIVISION OF WORKERS' COMPENSATION
Workers' Compensation — Independent Bill Review

This rulemaking action by the California Division of Workers' Compensation (DWC) makes permanent the emergency regulations originally adopted in OAL File No. 2012-1219-02E which includes the amendments of existing sections and adoption of new regulation sections in Title 8 of the California Code of Regulations (CCR). That emergency rulemaking amended sections 9792.5.1, 9793, 9794, and 9795, and adopted new sections 9792.5.4 through 9792.5.15 intended to implement the "Second Review" and "Independent Bill Review" procedures established by Stats. 2012, c. 363 (SB 863). These regulations incorporate by reference the current version and two prior versions of the California Division of Workers' Compensation Electronic Medical Billing and Payment Companion Guide and the California Division of Workers' Compensation Medical Billing and Payment Guide. The regulations also add forms DWC Form SBR-1 (version 1/2014) and DWC Form IBR-1 (version 1/2014).

Title 8
California Code of Regulations
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
Filed 02/12/2014
Effective 02/12/2014
Agency Contact: George Parisotto (510) 286-0639

File# 2014-0122-01

DIVISION OF WORKERS' COMPENSATION
Workers' Compensation — Personal Physicians

The Division of Workers' Compensation filed this rulemaking action to amend several title 8 regulations of the California Code of Regulations so that they conform with recent changes in the Labor Code that were made in SB 863 (Stats. 2012, c. 363). The amendments change certain criteria that an employee must meet to pre-designate a personal physician or medical group for work-related injuries or illnesses to conform to SB 863. The amendments also interpret and clarify what is meant by "chiropractic visits" under Labor Code section 4604.5.

Title 8
California Code of Regulations
AMEND: 9780, 9780.1, 9783, 9783.1, 9785
Filed 02/12/2014
Effective 07/01/2014
Agency Contact: James M. Robbins (510) 286-0544

File# 2014-0121-01

FISH AND GAME COMMISSION
2014 Fee Adjustments for Section 701, Title 14, CCR

This action without regulatory effect updates sport fishing forms for 2014 and reflects the change from the Department of Fish and Game to the Department of Fish and Wildlife.

Title 14
California Code of Regulations
AMEND: 701
Filed 02/10/2014
Effective 03/01/2014
Agency Contact: Jon Snellstrom (916) 654-9868

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN September 11, 2013 TO
February 12, 2014**

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

11/21/13 ADOPT: 2002(c)(4), 2002(c)(5),
2002(c)(8)

10/29/13 ADOPT: 2000, 2001, 2002, 2003, 2004

Title 2

02/10/14 AMEND: 58000
01/27/14 AMEND: 56800
01/21/14 AMEND: 1194
01/13/14 AMEND: 55300
12/23/13 ADOPT: 18950.2 AMEND: 18942,
18944, 18950, 18950.1, 18950.4
REPEAL: 18727.5, 18950.3
12/23/13 AMEND: 18351
12/02/13 ADOPT: 18417
11/19/13 ADOPT: 21001.1, 21001.2, 21001.3
AMEND: 21000, 21001, 21002, 21003,
21004, 21005, 21006, 21007
(re-numbered to 21004.5), 21008, 21009
(re-numbered to 21005.5)
11/04/13 AMEND: 1859.2, 1859.71, 1859.71.6,
1859.74.5, 1859.77.4, 1859.82, 1859.83
10/30/13 AMEND: 1859.76
10/25/13 ADOPT: 579.3, 579.21, 579.22, 579.25
AMEND: 579.2
10/03/13 AMEND: 18521.5
10/03/13 ADOPT: 18421.5
10/03/13 AMEND: 18239
10/03/13 AMEND: Amend and renumber
sections: 7285.0 (11000), 7285.1
(11001), 7285.2 (11002), 7285.4
(11003), 7285.7 (11004), 7286.0
(11005), 7286.1 (11005.1), 7286.3
(11006), 7286.4 (11007), 7286.5
(11008), 7286.6 (11009), 7286.7 (11010),
7286.8 (11011), 7287.0 (11013), 7287.1
(11014), 7287.2 (11015), 7287.3
(11016), 7287.4 (11017), 7287.6
(11019), 7287.7 (11020), 7287.8
(11021), 7287.9 (11022), 7288.0 (11023),
7289.4 (11027), 7289.5 (11028), 7290.6
(11029), 7290.7 (11030), 7290.8
(11031), 7290.9 (11032), 7291.0
(11033), 7291.1 (11031), 7291.2
(11035), 7291.3 (11036), 7291.4
(11037), 7291.6 (11039), 7291.7
(11040), 7291.8 (11041), 7291.9
(11042), 7291.10 (11043), 7291.11
(11044), 7291.12 (11045), 7291.13
(11046), 7291.14 (11047), 7291.16
(11049), 7291.17 (11050), 7291.18
(11051), 7292.0 (11052), 7292.1
(11053), 7292.2 (11054), 7292.3
(11055), 7292.4 (11056), 7292.6
(11058), 7293.0 (11059), 7293.1
(11060), 7293.2 (11061), 7293.3 (11062),
7293.4 (11063), 7293.5 (11064), 7293.6
(11065), 7293.7 (11066), 7293.8

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(11067), 7293.9	(11068), 7294.0	Title 3
(11069), 7294.1	(11070), 7294.2	02/12/14 AMEND: 3700(c)
(11071), 7295.0	(11074), 7295.1	02/10/14 AMEND: 3435(b)
(11075), 7295.2	(11076), 7295.3	02/05/14 AMEND: 3435(b)
(11077), 7295.4	(11078), 7295.5	01/27/14 AMEND: 3406(b)
(11079), 7295.6	(11080), 7295.7	01/23/14 AMEND: 3591.11
(11081), 7295.8	(11082), 7295.9	01/14/14 ADOPT: 1392.13
(11083), 7296.0	(11084), 7296.1	01/09/14 AMEND: 1300, 1300.1, 1300.3,
(11085), 7296.2	(11086), 7297.0	1300.11, 1300.12, 1300.13, 1300.14,
(11087), 7297.1	(11088), 7297.2	1300.15 REPEAL: 1300.2, 1300.4
(11089), 7297.3	(11090), 7297.4	12/16/13 AMEND: 3591.12(a) & (b)
(11091), 7297.5	(11092), 7297.6	12/05/1 ADOPT: 1280, 1280.1, 1280.8, 1280.10
(11093), 7297.7(11094), 7297.9(11096),		AMEND: 1280.73
7297.10(11097), 7297.11(11098), 8101		11/25/13 AMEND: 3435(b)
(11099), 8102(11100), 8102.5(11101),		11/13/13 AMEND: 3700(c)
8103(11102), 8104(11103), 8106		11/07/13 AMEND: 3591.20(a)
(11104), 8107(11105), 8109(11107),		11/07/13 AMEND: 6512, 6513
8112(11108), 8113(11109), 8114		11/06/13 ADOPT: 1180.3.3, 1180.3.4, 1180.3.5,
(11110), 8115(11111), 8117(11113),		1180.3.6, 1180.3.7, 1180.3.8, 1180.3.9
8117.5(11114), 8118(11115), 8119		11/04/13 AMEND: 3591.6(a)
(11116), 8120(11117), 8200(11118),		10/21/13 AMEND: 1380.19(p)
8201(11119), 8202(11120), 8202.5		10/21/13 AMEND: 3701.1, 3701.2, 3701.3,
(11121), 8203(11122), 8205(11124),		3701.4, 3701.5, 3701.6, 3701.7
8300(11125), 8301(11126), 8302		10/14/13 AMEND: 3435(b)
(11127), 8303(11128), 8310(11130),		10/07/13 AMEND: 3435(b)
8311(11131), 8312(11132), 8400		09/30/13 AMEND: 3435(b)
(11133), 8401(11134), 8402(11135),		09/20/13 AMEND: 3435(b)
8403(11136), 8500(11137), 8501		09/12/13 ADOPT: 2320.3, 2320.4(a), 2320.4(b),
(11138), 8503(11140), 8504(11141);		2320.4(c), 2324, 2325 AMEND: 2302,
Renumber sections: 7287.5(11018),		2304, 2304(b)(1), 2304(d), 2322, 2322.3
7288.1(11024), 7288.2(11025), 7288.3		09/12/13 ADOPT: 3591.11
(11026), 7291.5(11038), 7292.5		
(11057), 7294.3(11072), 7294.4		Title 4
(11073), 8108(11106), 8116(11112),		02/03/14 ADOPT: 10170.16, 10170.17, 10170.18,
8204(11123), 8304(11129), 8502		10170.19, 10170.20, 10170.21,
(11139) REPEAL: 7285.3, 7285.5,		10170.22, 10170.23, 10170.24
7285.6, 7286.9, 7291.15, 7297.8, 7400,		01/21/14 ADOPT: 10170.1, 10170.2, 10170.3,
7401, 7402, 7403, 7404, 7405, 7406,		10170.4, 10170.5, 10170.6, 10170.7,
7407, 7408, 7409, 7410, 7411, 7412,		10170.8, 10170.9, 10170.10, 10170.11,
7413, 7414, 7415, 7416, 7417, 7418,		10170.12, 10170.13, 10170.14, 10170.15
7419, 7420, 7421, 7422, 7423, 7424,		12/26/13 ADOPT: 8034(d)
7425, 7426, 7427, 7428, 7429, 7430,		12/24/13 AMEND: 8070, 8072
7431, 7432, 7433, 7434, 7435, 7436,		12/23/13 AMEND: 5000, 5170, 5190, 5205, 5212,
7437, 7438		5230, 5250
09/23/13 REPEAL: 58700		12/19/13 AMEND: 10325
09/23/13 REPEAL: 53200		12/04/13 AMEND: 12200.20, 12220.20, 12480,
09/23/13 REPEAL: 53400		12482, 12500, 12505, 12508 REPEAL:
09/23/13 REPEAL: 57100		12488
09/19/13 AMEND: 2970		11/21/13 ADOPT: 7113, 7114, 7115, 7116, 7117,
09/16/13 REPEAL: 56500		7118, 7119, 7120, 7121, 7122, 7123,
09/16/13 REPEAL: 59580		7124, 7125, 7126, 7127, 7128, 7129
09/12/13 REPEAL: 56400		11/21/13 AMEND: 1101, 1126, 1373.2, 1374,
09/12/13 REPEAL: 52700		1374.2, 1374.3, 1383.2 REPEAL: 1370,
09/12/13 REPEAL: 54500		1374.1

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10/28/13	AMEND: 4001	01/07/14	AMEND: 4297
10/07/13	AMEND: 10030, 10031, 10032, 10033, 10034, 10035, 10036	12/26/13	AMEND: 9789.12.2, 9789.12.3, 9789.12.4, 9789.12.8, 9789.19
10/07/13	ADOPT: 8035.5	12/16/13	ADOPT: 10206, 10206.1, 10206.2, 10206.3, 10206.4, 10206.5, 10206.14, 10206.15, 10207, 10208, 10208.1
09/27/13	ADOPT: 12014		AMEND: 10205, 10205.12
09/24/13	AMEND: 8035	12/02/13	AMEND: 15600, 15605
Title 5		11/08/13	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
02/06/14	ADOPT: 15494, 15495, 15496, 15497	11/06/13	AMEND: 1529, 1532, 1532.1, Appendix B of 1532.1, 1532.2, 1535, 5150, 5189, 5190, 5191, 5192, Appendix A of 5192, 5194, Appendix A of 5194, Appendix B of 5194, Appendix C of 5194, Appendix D of 5194, Appendix E of 5194, Appendix F of 5194, Appendix G of 5194, 5198, Appendix B of 5198, 5200, 5201, 5202, Appendix A of 5202, 5206, 5207, 5208, Appendix J of 5208, 5209, 5210, 5211, 5212, Appendix B of 5212, 5213, 5214, 5217, Appendix A of 5217, 5218, 5220, 8358, Appendix K of 8358, 8359
02/05/14	ADOPT: 80691, 80692	11/06/13	AMEND: 105
02/03/14	AMEND: 850, 851, 852, 853, 853.5, 855, 857, 858, 859, 861, 862, 862.5, 863, 864 REPEAL: 854, 864.5, 865, 866, 867, 867.5, 868	10/29/13	ADOPT: 344.76, 344.77
01/23/14	AMEND: 22000	10/03/13	ADOPT: 11770, 11771.1, 11771.3, 11772, 11773
12/04/13	AMEND: 15440, 15444, 15445, 15446, 15447, 15448, 15450, 15451, 15453, 15455, 15456, 15460, 15461, 15463, 15464, 15467, 15468, 15469, 15471, 15471.2, 15472, 15473, 15474, 15475, 15480, 15483, 15484, 15485, 15486, 15490, 15493	09/30/13	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
10/23/13	ADOPT: 80691, 80692	09/30/13	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, 9792.7, 9792.9, 9792.10, 9792.11, 9792.12, 9792.15
10/17/13	ADOPT: 19847 AMEND: 19816, 19816.1, 19818, 19824, 19829, 19837.3	09/30/13	ADOPT: 10205, 10205.12, 10206, 10206.1, 10206.2, 10206.3, 10206.4, 10206.5, 10206.14, 10206.15, 10207, 10208
10/16/13	REPEAL: 3052	09/24/13	ADOPT: 9789.12.1, 9789.12.2, 9789.12.3, 9789.12.4, 9789.12.5, 9789.12.6, 9789.12.7, 9789.12.8, 9789.12.9, 9789.12.10, 9789.12.11, 9789.12.12, 9789.12.13, 9789.12.14, 9789.12.15, 9789.13.1, 9789.13.2, 9789.13.3, 9789.14, 9789.15.1
09/25/13	AMEND: 11530, 11531, 11532		
09/25/13	AMEND: 20101, 20107, 20190 REPEAL: 20150, 20151, 20152, 20153, 20154, 20155, 20156, 20157		
09/25/13	AMEND: 11530, 11531, 11532		
09/17/13	AMEND: 4600, 4610, 4630, 4631, 4633, 4650, 4611, 4620, 4621, 4622, 4632, 4640		
09/16/13	AMEND: 80499		
Title 8			
02/12/14	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, 9792.7, 9792.9, 9792.10, 9792.11, 9792.12, 9792.15		
02/12/14	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		
02/12/14	AMEND: 9780, 9780.1, 9783, 9783.1, 9785		
02/05/14	AMEND: 10133.32, 10133.33, 10133.35, 10133.36		
01/21/14	AMEND: 334		
01/21/14	AMEND: 344, 344.1		
01/09/14	AMEND: 8495, 8496, 8497, 8500		
01/09/14	AMEND: 5155		

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	9789.15.2, 9789.15.3, 9789.15.4, 9789.15.5, 9789.15.6, 9789.16.1, 9789.16.2, 9789.16.3, 9789.16.4, 9789.16.5, 9789.16.6, 9789.16.7, 9789.16.8, 9789.17.1, 9789.17.2, 9789.18.1, 9789.18.2, 9789.18.3, 9789.18.4, 9789.18.5, 9789.18.6, 9789.18.7, 9789.18.8, 9789.18.9, 9789.18.10, 9789.18.11, 9789.18.12, 9789.18.19		1422.7, 1423, 1581, 1582, 1805.204, 1950.122.8
		12/30/13	AMEND: 260.237
		12/27/13	AMEND: 2699.100, 2699.200, 2699.201, 2699.205, 2699.207, 2699.209, 2699.210, 2699.400
			REPEAL: 2699.202, 2699.208, 2699.211
		12/24/13	ADOPT: 2598.3(b), 2598.3(c)
		12/23/13	ADOPT: 6456
		12/19/13	AMEND: 2698.200
09/23/13	ADOPT: 10451.1, 10451.2, 10451.3, 10451.4, 10498, 10538, 10606.5, 10608.5, 10774.5, 10957, 10957.1, 10959 AMEND: 10250, 10260, 10300, 10301, 10408, 10450, 10582.5, 10606, 10608, 10622, 10770, 10770.1, 10770.5, 10770.6, 10845, 10886	12/19/13	AMEND: 2698.602
		12/09/13	ADOPT: 2594, 2594.1, 2594.2, 2594.3, 2594.4, 2594.5, 2594.6, 2594.7
		12/03/13	ADOPT: 6540, 6542, 6544, 6546, 6548, 6550, 6552
		11/27/13	ADOPT: 1718.1
09/17/13	AMEND: 3650(b)(3)	11/26/13	ADOPT: 2598.1, 2598.2, 2598.3, 2598.4, 2598.5, 2598.6
09/17/13	AMEND: 5194(g)(2)(Q)	11/20/13	ADOPT: 2274.50, 2274.51, 2274.52, 2274.53, 2274.54, 2274.55, 2274.56, 2274.57, 2274.58, 2274.59, 2274.60
09/16/13	ADOPT: 37, 10159 AMEND: 1, 11, 11.5, 13, 14, 17, 26, 30, 31.3, 31.5, 31.7, 32, 33, 34, 35, 35.5, 36, 38, 100, 104, 105, 106, 109, 110, 112, 117, 10160 REPEAL: 31.2	11/20/13	ADOPT: 2562.1, 2562.2, 2562.3, 2562.4
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