



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. CALIFORNIA CITIZEN
OVERSIGHT BOARD**

**NOTICE OF INTENTION TO AMEND THE
CONFLICT-OF-INTEREST CODE OF THE
CALIFORNIA CITIZEN OVERSIGHT BOARD**

NOTICE IS HEREBY GIVEN that the **California Citizen Oversight Board** pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on December 2, 2016 and closing on January 16, 2017. All inquiries should be directed to the contact listed below.

The **California Citizen Oversight Board** proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include: Designating positions in disclosure categories, defining disclosure categories, and other technical changes.

The proposed amendment and explanation of the reasons can be obtained from the agency's contact.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than January 16, 2017, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than January 1, 2017.

The **California Citizen Oversight Board** has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.

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

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to: Jack Bastida, 916-327-2224, jack.bastida@energy.ca.gov.

**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

ADOPTION

STATE AGENCY: California Citizen Oversight Board

AMENDMENT

MULTI-COUNTY: Kern-Tulare Water District

A written comment period has been established commencing on December 2, 2016, and closing on January 16, 2017. Written comments should be directed to the Fair Political Practices Commission, Attention Ivy Branaman, 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 or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than January 16, 2017. 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 Ivy Branaman, 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 Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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CONFLICT-OF-INTEREST CODES

AMENDMENT

STATE AGENCY: The California State University

A written comment period has been established commencing on December 2, 2016, and closing on January 1, 2017. Written comments should be directed to the Fair Political Practices Commission, Attention Ivy Branaman, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 30-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for her review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

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

The Executive Director of the Commission, upon her or its own motion or at the request of any interested per-

son, 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 January 1, 2017. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

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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.

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

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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.

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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.

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Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620,

Sacramento, California 95814, telephone (916) 322-5660.

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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 Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

General Industry Safety Orders
Section 4306

Underhung/Slung (Jump) Saw Guarding

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

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **January 19, 2017** in **Room 310** of the **County Administration Center, 1600 Pacific Highway, San Diego, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **December 2, 2016** and closes at 5:00 p.m. on **January 19, 2017**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

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

By fax at (916) 274-5743; or
By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

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

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking is the result of an Occupational Safety and Health Standards Board review of guarding requirements for underhung swing cutoff saws, inverted swing cutoff saws, jump saws and underhung saws contained in Section 4306 of the General Industry Safety Orders (GISO). These are types of circular wood-working saws where the blade emerges from underneath the stock or table and swings or slides upward to make the cut. The term “jump saw” derives from the fact that the blade in making the cut on the work piece “jumps up” from beneath the table to enter the wood.

Section 4306(b) requires blade guarding. Manufacturers provide blade guards in conformance with this standard. These saws are also typically provided with one or more additional point-of-operation guards such as but not limited to: tunnel guards, foot pedals, windshields, wrist restraints, passive detection and two-handed controls.

Staff has identified seven injuries that took place in California, from 2001-2009, involving underhung cut-off saws. The Cal OSHA Form 170A reports for these injuries describe employees coming in contact with the point-of-operation as a result of either the absence of, or ineffectiveness of the point-of-operation guarding. Similarly, a U.S. Department of Labor inspection report citing a 1995 incident which took place in California, describes an employee’s fingers being amputated despite the fact that the blade of the saw was guarded as required by Section 4306(b), and the employee had received operator training.

The inherently hazardous nature of these saws and the accident documentation suggests that blade guarding alone is insufficient to prevent contact. Performance-based point-of-operation guarding (POG) standards are contained in Sections 4184 and 4186. Title 8 point-of-operation guarding standards apply to Section 4306. However, other than a require-

ment for effective guarding and guarding the blade, point-of-operation guarding is not mentioned in Section 4306. The proposal will clarify that the point-of-operation guarding requirements in Section 4184 and 4186 apply to the underhung-type saws in addition to the blade guarding required by Section 4306.

The proposal is intended to also prevent the potential for severe cuts or amputations of the fingers or hands during saw cutting operations or when idling.

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

Anticipated Benefits

The proposed rulemaking clarifies the regulatory language to provide specific requirements for guarding these types of saws. The proposed regulatory amendment will protect workers from exposure to severe cuts or amputations that have occurred in the past as a result of contact with the rotating saw blade.

The proposal adds a new subsection (e) to Section 4306 to prevent employee intrusion into the hazardous point-of-operation where the underhung/underslung jump saw blade ascends, cuts the work piece and drops back down below the table. This amendment provides superior protection to operators from dangers associated with circular saw blades that swing or slide as they ascend to make the cut and allows the enclosed saw blade to safely contact the work piece without operator exposure to the hazardous point-of-operation.

The specific changes are as follows:

Section 4306. Underhung Swing Cut-Off Saws, Inverted Swing Cut-Off Saws, Jump Saws, Underslung Saws.

Title 8, Section 4306 contains provisions for effectively guarding the types of saws described by Section 4306. Subsection (b) specifies how the blade is to be guarded and states that the upper half of the saw blade and arbor are to be shielded from contact by a blade guard.

An amendment is proposed to add a new subsection (e) to Section 4306 stating that the saw be provided with point-of-operation guarding in addition to the blade guard that will prevent the operator from being able to inadvertently contact the point-of-operation as the

blade ascends, cuts and drops back down below the table.

A Note is proposed that will clarify to the employer the location of GISO point-of-operation guarding standards and design specifications that are required to be applied to the types of saws regulated by Section 4306.

This proposal will ensure that workers are protected from dangers associated with saws that ascend from below the table to make cuts, by providing clear direction in guarding the point of operation of these types of saws.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies and School Districts:

None.

Cost or Savings to State Agencies: None.

Cost to any Local Government or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630:

None.

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

Cost or Savings in Federal Funding to the State:

None.

Cost Impacts on a Representative Private Person or Business:

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

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

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

The proposed amendment is essentially informational to what is already in existence for guarding these types of saws which are typically provided with one or more point-of-operation guards. Saws that are only equipped with a blade guard may need to have their other point-of-operation guards reinstalled, or be re-equipped with additional point-of-operation guarding such as a tunnel guard by job fabrication or ordering a factory part from the manufacturer. This would be a one-time cost for the employer.

The average cost of a factory-built tunnel guard replacement is approximately \$500. A job-fabricated tunnel guard constructed of wood, metal or plastic could cost less than \$100. These figures could vary according to the type of POG being replaced and whether

it is a factory replacement or is job-fabricated. Factory part replacement costs will vary according to the type of POG, the least expensive being the plastic shield used on some model jump saws at approximately \$150 and the most expensive being the two-handed (handlebar control) trip system at approximately \$1700. Proportionally, the median cost of an underhung/jump saw that may be impacted by this proposal is approximately \$7,000; consequently, any required POG factory part augmentation would be substantially less than the cost of the saw.

Significant Effect on Housing Costs: None.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendment may affect small businesses that utilize the type of saw affected by the proposal. The proposed amendment requires some form of point-of-operation guarding such as a tunnel guard, foot pedal, wrist restraints, two-handed trip or passive device as described in Article 54 of the GISO, in addition to the blade guard already required by Section 4306(b). Manufacturers of the type of saws regulated by Section 4306 have addressed the need for point-of-operation guarding in addition to the mandated blade guard voluntarily. Many manufacturers provide two-handed trip devices, some provide foot pedals and others provide passive protection. The production of jump saws has declined, given the fact that one manufacturer responsible for roughly 20-25 percent of the market share, discontinued production of their jump saws in 2009. However, their service life is long and it is reasonable to assume that many saws of this type are operational in California as the Federal OSHA injury data involving this type of saw suggests.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Board estimates the economic impact to be less than \$10 million. The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation of new businesses or the elimination of existing California businesses or affect the expansion of existing California businesses. The proposal provides clear direction in guarding this type of saw. This

regulatory proposal will promote worker safety by specifying an effective guard that protects the operator from dangers associated with saws that ascend from below the table to make the cut.

BENEFITS OF THE PROPOSED ACTION

The standard was amended to clarify the necessity for point-of-operation guarding; and to provide guidance in selecting an effective point-of-operation saw blade guard (such as a tunnel guard) to help prevent severe injuries and amputations from inadequately guarded saws of this type. The regulated public will benefit from the proposed action by having consistent guidance in the proper guarding of these types of saws and ensuring the protection of health and safety of California workers. There are no anticipated benefits to the state's environment.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) and the back-up contact person is Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

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

the date this notice 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 supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its website. Copies of the text of the regulation in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's web site at <http://www.dir.ca.gov/oshsb>.

TITLE 8. WORKERS' COMPENSATION APPEALS BOARD

NOTICE OF PROPOSED RULEMAKING RULES OF PRACTICE AND PROCEDURE

TITLE 8, CALIFORNIA CODE OF REGULATIONS, SECTIONS 10770 (AMENDED) AND 10770.7 (NEWLY ADOPTED)

NOTICE IS HEREBY GIVEN that the Workers' Compensation Appeals Board (WCAB) proposes to adopt and amend its Rules of Practice and Procedure (Rules),¹ as described below, after considering all comments, objections, and recommendations regarding the proposed action. *Although equal weight will be accorded to oral and written comments, the WCAB prefers written comments to oral testimony and prefers written comments submitted by e-mail. If written comments are timely submitted, it is not necessary to present oral testimony at the public hearing.*

The WCAB's proposed adoption and amendment to its Rules are being initiated pursuant to its rulemaking power under Labor Code sections 5307(a), 133, 5309 and 5708,² subject to the procedural requirements of section 5307.4. This Notice of Proposed Rulemaking and the accompanying Initial Statement of Reasons have been prepared to comply with the procedural requirements of section 5307.4 and for the convenience of the regulated public to assist it in analyzing and commenting on this largely non-APA rulemaking process.³

PUBLIC HEARING

The WCAB will hold a public hearing starting at **10:00 a.m. on Wednesday, January 4, 2017**, in the Milton Marks Conference Center, Santa Barbara Room of the Hiram Johnson State Office Building located at 455 Golden Gate Avenue, San Francisco, California. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action. Public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation. To provide everyone with an opportunity to speak, public testimony will be limited to 10 minutes per speaker and should be specific to the pro-

posed regulations. Testimony which would exceed 10 minutes may be submitted in writing. If public comment concludes before the Noon recess, no afternoon session will be held.

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

The WCAB requests but does not require that persons who make oral comments at the hearing also submit a written copy of their comments at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representatives, may submit written comments to the WCAB relevant to the proposed rulemaking. The written comment period closes at **5:00 p.m. on Wednesday, January 4, 2017**. The WCAB will consider only comments it has received by that time.

The address for submission of comments by e-mail is WCABRules@dir.ca.gov.

The address for submission of comments by mail is:

Workers' Compensation Appeals Board
Attention: Annette Gabrielli, Regulations
Coordinator
P.O. Box 429459
San Francisco CA 94142-9459

The address for submission of comments by delivery service or personal delivery is:

Workers' Compensation Appeals Board
Attention: Annette Gabrielli, Regulations
Coordinator
455 Golden Gate Avenue, Ninth Floor
San Francisco, CA

Comments also may be submitted by facsimile (Fax) at 1-415-703-4549.

AUTHORITY AND REFERENCE

Labor Code sections 5307(a), 133, 5309 and 5708 authorize the WCAB to adopt the proposed regulations. The proposed regulations implement, interpret and make specific various sections of the Labor Code.

¹ See Cal. Code Regs., Title 8, Division 1, Chapter 4.5, Subchapter 1.9, section 10213 et seq., and Subchapter 2, section 10300 et seq.

² All further statutory references are to the Labor Code unless otherwise specified.

³ Under Government Code section 11351, the WCAB is not subject to Article 5 (Gov. Code, § 11346 et seq.), Article 6 (*id.* § 11349 et seq.), Article 7 (*id.* § 11349.7 et seq.), or Article 8 (*id.* § 11360 et seq.) of the rulemaking provisions of the Administrative Procedure Act (APA), with the sole exception that section 11346.4(a)(5) [publication in the California Regulatory Notice register] does apply to the WCAB.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The WCAB has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

Cost to Any Local Agency or School District That Is Required To Be Reimbursed Under Part 7 (Commencing with Section 17500) of Division 4 of the Government Code: None.

Other Nondiscretionary Costs or Savings to Local Agencies: None.

Cost or Savings to Any State Agency or 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.

Effect on Small Business: None.

Cost Impacts on Representative Private Persons or Businesses: None.

Other Impacts on Jobs and Businesses: None.

Effect on Housing Costs: None.

The adoption of these regulations is not expected to create or eliminate jobs or businesses in the State of California or reduce or expand businesses currently doing business in the State of California.

CONSIDERATION OF ALTERNATIVES

Under Government Code section 11351, the WCAB is *not* subject to the provisions of Government Code section 11346.5(a)(13). Nevertheless, the WCAB invites interested persons to present statements or arguments at the scheduled hearing or during the written comment period regarding reasonable alternatives that would be more effective in carrying out the purpose of this rulemaking, or would be as effective and less burdensome to the affected private persons, than the proposed action of this rulemaking.

PRE-NOTICE PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Under Government Code section 11351, the WCAB is *not* subject to the provisions of Government Code section 11346.45 relating to pre-notice public review and comment of contemplated amendments to its Rules.

CONTACT PERSONS

Requests to be added to the e-mail and/or mail distribution list(s) or requests for copies of rulemaking documents (e.g., the proposed regulations, the Initial Statement of Reasons) or other non-substantive inquiries concerning these rulemaking documents may be directed to: Annette Gabrielli, Regulations Coordinator, Workers' Compensation Appeals Board, P.O. Box 429459, San Francisco, CA 94142-9459, E-mail: WCABRules@dir.ca.gov, Phone: (415) 703-4539. All other inquiries should be in writing by either e-mail or mail.

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

Throughout the rulemaking process, the WCAB will have its entire rulemaking file available for inspection and copying at its office at 455 Golden Gate Avenue, 9th Floor, San Francisco, CA 94102, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday (excluding holidays). In addition, the above-cited materials may be accessed on the internet at <http://www.dir.ca.gov/wcab/WCABProposedRegulations/Section10770/Section10770.htm>. As of the date of this Notice, the rulemaking file consists of this Notice, the Initial Statement of Reasons, the proposed text of the regulations, and the Form 399.

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, and the text of the proposed regulations will automatically be sent to those interested persons on the mailing list of the WCAB, and to all persons who have requested notice of hearing as required by Labor Code Section 5307.4.

If adopted, the regulations with any final amendments will appear in the California Code of Regulations at Title 8, Division 1, Chapter 4.5, Subchapter 2, Sections 10770 (amended) and 10770.7 (newly adopted). The text of the final regulations also may be available through the website of the Office of Administrative Law at www.oal.ca.gov.

TITLE 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 (GC) Section 12838.5 and Penal

Code (PC) Section 5055, and the rulemaking authority granted by PC Sections 5058 and 5058.3, in order to implement, interpret and make specific PC section 5054, proposes to amend Sections 3332 and 3343 of the California Code of Regulations (CCR), Title 15, Division 3, governing Management Cases, and Management of Disruptive Cases.

PUBLIC HEARING

Date and Time: January 20, 2017 from 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.

INFORMATIVE DIGEST

On August 14, 2014, CDCR issued a temporary moratorium on the placement of inmates in the Mental Health Services Delivery System (MHSDS) level of care on Management Cell Status (MCS). The moratorium was placed in effect to all the Division of Adult Institutions (DAI) and the Division of Health Care Services (DHCS) to develop a statewide training plan for the revised MCS policy specific to the behavior plan provision.

The moratorium on the placement of MHSDS inmate participants on MCS were to remain in effect until DAI and DHCS could fully develop and implement the MCS behavior plan training component. To ensure awareness of the moratorium, institutions were directed to provide on-the-job training (OJT) by conducting unit meetings, whereas the unit managers were to advise supervisory and rank-and-file staff of the revision to the MCS policy.

Subsequently, in September of 2015, the CDCR banned the use of management cells pending revision to the California Code of Regulations (CCR) and subsequently stopped utilizing management cell status for any inmate.

The Department has determined that the intent of the MCS procedure is already addressed within CCR section 3332, Administration and Supervision of Detention Units. The Department can continue to utilize current regulations pertaining to the inmate disciplinary process to address behavior or management issues. Regulations are already in place to identify that an in-

mate participant in the MHSDS who engages in behavior that requires and justifies placement on MCS, will be medically evaluated, and transferred to a crisis bed or a higher level of care.

Therefore, the Department is removing MCS from regulations as existing regulations and practices are already in place as far as medical/mental health evaluations and placement in either a crisis bed or a security housing unit.

This action provides the following:

- The deletion of the reference of Management Cell Status due to existing regulations that currently provide direction for the treatment/referral of or response to disruptive inmates who pose a “imminent” or “urgent” danger to themselves or other persons.
- The removal of the reference of “Management” as the term infers a title and procedure that is no longer being utilized. Additional language is added to solidify the necessary mental health referral in such cases.

POLICY STATEMENT OVERVIEW

The Department believes that the removal of MCS references from regulations is needed to clarify the Department’s intent when dealing with inmates with mental health concerns, and that the discontinuance of management cells and management cell status is beneficial in that it has added to the reduction of recidivism and overcrowding by appropriately transferring inmates in the mental health services delivery system to a therapeutic facility that provides a higher level of care than what is normally available in Administrative Segregation. Inmates who are decompensating due to mental illness will benefit from the enhanced support, treatment and rehabilitative services. This will reduce the population housed in administrative segregation, which in turn substantially reduces the costs associated with operating such a unit. Recidivism would be reduced by providing the inmate with the level of mental health services and a behavior management plan to become successful once released from prison.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing State regulations. Pursuant to this evaluation, the Department has reviewed existing regulations pertaining to inmate Management Cases and determined that these

proposed regulations are not inconsistent or incompatible.

LOCAL MANDATES

The Department has determined that these regulations do not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500–17630.

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: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the State: *None.*

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES

The Department has initially determined 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.

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.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

These regulations are directed at the internal management of State prisons and do not impose any obligations, duties, fees, costs, responsibilities, reporting requirements, etc. on California businesses, large or small. No economic impacts have been brought to the attention of the Department. The Department has therefore concluded that these regulations will have no impact on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California. Regarding benefits, these regulations will protect the health and safety of California residents,

worker safety, and the State’s environment by providing a safe environment that will encourage visitation for families, which will have a positive impact on inmates, and increase worker safety.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small businesses because they are not affected by the internal management of state prisons.

EFFECT ON HOUSING COSTS

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

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.

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:

Anthony Carter
Regulation and Policy Management Branch
Telephone (916) 445–2220

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

Lt. Arnel Bona
Division of Adult Institutions
California Department of Corrections and
Rehabilitation
(916) 445-8282

AVAILABILITY OF THE FINAL STATEMENT
OF REASONS

Following its preparation, a copy of the Final Statement of Reasons will be available on the Department's website at <http://www.cdcr.ca.gov>, and may also be obtained from the Department's contact person.

WRITTEN COMMENT PERIOD

The public comment period will close January 20, 2017 at 5:00 p.m. Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action (by mail, by fax, or by e-mail) to 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.

AVAILABILITY OF PROPOSED TEXT AND
INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the text, any documents incorporated by reference, 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, documents incorporated by reference, and Notice of Proposed Regulations will also be made available on the Department's website: <http://www.cdcr.ca.gov>.

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 directed 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 15. PRISON INDUSTRY
AUTHORITY

NOTICE IS HEREBY GIVEN that the California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2808 and 2809 and Executive Order D-58-86 (dated September 24, 1986) in order to implement, interpret and make specific Penal Code Sections 2808 and 2809 and Executive Order D-58-86, propose to adopt new Section 8106.2 of Article 6, of the California Code of Regulations (CCR), Title 15, Division 8, concerning sensitive position designation for the purpose of employee substance abuse testing.

PUBLIC HEARING

At this time, no public hearing has been scheduled concerning the proposed adoption to regulations. Anyone may request a public hearing by contacting the Contact Person set forth below. Requests for public hearings must be made no later than 15 days prior to January 16, 2017.

PUBLIC COMMENT PERIOD

The public comment period will close **January 16, 2017 at 5:00 p.m.** Any person may submit public comments regarding the proposed changes in writing. To be considered, comments must be received before the close of the comment period. Use one of the following to submit:

MAIL or HAND DELIVER

CALPIA/Legal Services Unit
560 East Natoma Street
Folsom, CA 95630

FAX

(916) 358-2709

E-MAIL

PIAregs@calpia.ca.gov

CONTACT PERSONS:

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action to:

Dawn Eger, Legal Analyst
California Prison Industry Authority
560 East Natoma Street,
Folsom, CA 95630
Telephone (916) 358-1711

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

Diana Harbaugh, Executive Secretary II
California Prison Industry Authority
560 East Natoma Street
Folsom, CA 95630
Telephone (916) 358-1711

AUTHORITY AND REFERENCE

The California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2808 and 2809 and Executive Order D-58-86 (dated September 24, 1986) in order to implement, interpret and make specific Penal Code Sections 2808 and 2809 and Executive Order D-58-86 (dated September 24, 1986), propose to adopt new Section 8106.2 of Article 6, of the California Code of Regulations (CCR), Title 15, Division 8, concerning sensitive position designation for the purpose of employee substance abuse testing.

**INFORMATIVE DIGEST
 POLICY STATEMENT OVERVIEW**

In order for CALPIA to function safely and efficiently, new regulations are needed to speed up the process for designating sensitive positions for the purpose of employee substance abuse testing. Current regulations¹ direct state agencies to seek California Department of Human Resources' (CalHR) approval for the designation of sensitive positions. CalHR's regulated process for designating sensitive positions is slow, nonproductive, and causing a threat to the safety of CALPIA employees and other individuals inside the workplace. CalHR stalled CALPIA's ability to test employees for substance abuse under reasonable suspicious circumstances for more than two years. CALPIA needs its own authority to quickly identify and designate current and

future job assignments that are sensitive for safety reasons.

These proposed regulations will help to ensure that CALPIA operations are performed without undue risk of costly personal injuries and/or property damage caused by substance abuse. These regulations will provide a quicker process for CALPIA positions to be designated as sensitive for the purpose of employee substance abuse testing.

The proposed adoption will be vetted through the public process of the PIB, as required in PC Section 2808(h) and (i), and promulgated through the regulatory process as specified in the Administrative Procedure Act (APA). CALPIA will give notice to employees affected by the proposed regulation and give such employees the opportunity to submit their comments or alternative suggestions. The PIB will review these regulations at the next board meeting held on December 15, 2016. Upon approval, the PIB's Record of Vote and the applicable portion of the meeting minutes will be included in the rulemaking file. All rulemaking documents will be filed with the Office of Administrative Law (OAL) and are all available to the public on CALPIA's website.

Evaluation of Inconsistency/Incompatibility with Existing Regulations:

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

Local Mandates:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Sections 17500 through 17630.

Fiscal Impact Statement:

Cost to any local agency or school district that is required to be reimbursed in accordance with Government Code Sections 17500 through

17630: None.

Cost or savings to any state agency: None.

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

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

Effect of Housing Costs:

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

Significant Statewide Adverse Economic Impact on Business:

CALPIA has initially determined that the proposed action will not have a significant statewide adverse eco-

¹ Section 599.961, Title 2, of the California Code of Regulations.

conomic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because they are not affected by the internal management of CALPIA employees.

Results of the Economic Impact Analysis/Assessment

In accordance with Government Code Section 11346.3(b), the CALPIA has made the following assessments regarding the proposed regulation:

Creation or Elimination of Jobs within the State of California

CALPIA has determined that increasing the list of substances that CALPIA employees can be tested for will have no impact on the creation or elimination of existing jobs within California because those jobs are not affected by the internal management of CALPIA employees.

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

Increasing the list of substances that CALPIA employees can be tested for will have no effect on the creation of new or elimination of existing businesses within California because those businesses are not affected by the internal management of CALPIA employees.

Expansion of Businesses Currently Doing Business within the State of California

Increasing the list of substances that CALPIA employees can be tested for will have no effect on the expansion of businesses currently doing business within the State of California because they are not affected by the internal management of CALPIA employees.

Benefits of the Regulations

The proposed regulatory action will benefit CALPIA by providing a quicker process for CALPIA positions to be designated as sensitive for the purpose of substance abuse testing. These proposed regulations will help to ensure that CALPIA operations are performed without undue risk of costly personal injuries and/or property damage.

Cost Impacts on Representative Private Persons or Businesses

CALPIA 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

CALPIA has determined that this action has no significant adverse economic impact on small businesses because they are not affected the internal management of CALPIA inmate workers.

Consideration of Alternatives

CALPIA must determine that no reasonable alternative considered by CALPIA, or that has otherwise been identified and brought to the attention of CALPIA, 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 implementing the statutory policy or other provision of law.

Interested persons are invited to submit written statements or arguments with respect to any alternatives to the changes proposed during the written comment period.

Reports Relied Upon

The CALPIA, in proposing these regulations, has not identified nor relied upon any technical, theoretical, or empirical study, report, or similar document.

Availability of Proposed Text, Initial Statement of Reasons, and Rulemaking Record; Documents on CALPIA's Website

The Proposed Text, Initial Statement of Reasons, and all the information upon which this proposal is based have been placed in the rulemaking record, which is available to the public upon request directed to the CALPIA's contact person. The documents will also be made available on the CALPIA website: www.calpia.ca.gov.

Availability of Changes to Proposed Text

After considering all timely and relevant comments received, the PIB may approve the proposed regulations substantially as described in this Notice. If CALPIA 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 PIB reviews and approves the regulations as revised. CALPIA will accept written comments on the modified regulations for 15 days after the date on which they are made available. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice or can be viewed by visiting CALPIA's website: www.calpia.ca.gov.

Availability of the Final Statement of Reasons

Following its preparation, a copy of the Final Statement of Reasons may be obtained from CALPIA's contact person or by visiting the CALPIA website: www.calpia.ca.gov.

**TITLE 15. PRISON
INDUSTRY AUTHORITY**

NOTICE IS HEREBY GIVEN that the California Prison Industry Authority (CALPIA) and the Prison In-

dustry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2801 and 2808 in order to implement, interpret and make specific Penal Code Sections 2801 and 2808, propose to amend Sections 8004 and 8004.3 of Article 3 of the California Code of Regulations (CCR), Title 15, Division 8, concerning CALPIA Inmate drug/alcohol test refusal.

PUBLIC HEARING

At this time, no public hearing has been scheduled concerning the proposed change to regulations. Anyone may request a public hearing by contacting the Contact Person set forth below. Requests for public hearings must be made no later than 15 days prior to January 16, 2017.

PUBLIC COMMENT PERIOD

The public comment period will close **January 16, 2017 at 5:00 p.m.** Any person may submit public comments regarding the proposed changes in writing. To be considered, comments must be received before the close of the comment period. Use one of the following to submit:

MAIL or HAND DELIVER

CALPIA/Legal Services Unit
560 East Natoma Street
Folsom, CA 95630

FAX

(916) 358-2709

E-MAIL

PIAregs@calpia.ca.gov

CONTACT PERSONS

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action to:

Dawn Eger, Legal Analyst
California Prison Industry Authority
560 East Natoma Street
Folsom, CA 95630
Telephone (916) 358-1711

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

Diana Harbaugh, Executive Secretary II
California Prison Industry Authority
560 East Natoma Street
Folsom, CA 95630
Telephone (916) 358-1711

AUTHORITY AND REFERENCE

PC section 2801 provides CALPIA's purpose as an agency and its implied rulemaking authority.

PC section 2808 provides the PIB with the authority to approve CALPIA's rulemaking proposals.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In order for CALPIA to function safely and efficiently, new regulations are needed to provide clarity of consequences for CALPIA inmates who refuse to participate in controlled substance and/or alcohol testing. For safety reasons, these inmates must be immediately removed and unassigned from CALPIA workplaces. Current regulations do not provide for immediate removal of a CALPIA inmate who refuses to participate in a drug/alcohol testing process. California Department of Corrections and Rehabilitation's (CDCR) disciplinary matrix requires substance abuse treatment programs and progressive loss of pay for first, second and third drug violations. The discipline differences are causing safety issues such as the recent discovery of two CALPIA inmate employees who had refused to drug test, suffered loss of pay but were sent to work in CALPIA enterprises because CDCR was following its own regulations regarding discipline. CALPIA should not be forced to accept this potential risk within its enterprises.

The proposed regulatory action will benefit CALPIA by providing a safe work environment and potentially avoid the cost of human injury or property damage associated with substance abuse.

The proposed amendments will be vetted through the public process of the PIB, as required in PC Section 2808, subsections (h) and (i), and promulgated through the regulatory process as specified in the Administrative Procedure Act (APA). The PIB will review these

regulations at the next board meeting held on December 15, 2016. Upon approval, the PIB's Record of Vote and the applicable portion of the meeting minutes will be included in the rulemaking file. These documents will be filed with the Office of Administrative Law (OAL) and available to the public upon request.

Evaluation of Inconsistency/Incompatibility with Existing Regulations:

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

Local Mandates:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Sections 17500 through 17630.

Fiscal Impact Statement:

Cost to any local agency or school district that is required to be reimbursed in accordance with Government Code Sections 17500 through 17630:	None
Cost or savings to any state agency:	None
Other nondiscretionary cost or savings imposed on local agencies:	None
Cost or savings in federal funding to the State:	None

Effect on Housing Costs:

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

Significant Statewide Adverse Economic Impact On Business:

CALPIA has initially determined that the proposed adoption 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 because they are not affected by the internal management of CALPIA inmate workers.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Results of the Economic Impact Analysis/Assessment

CALPIA has made the following assessments regarding the economic impact assessment of the proposed regulation:

Creation or Elimination of Jobs within the State of California

This action will not create or eliminate existing jobs within the State of California. It is determined that this action has no significant adverse economic impact on jobs within the State of California because the jobs are not affected by the internal management of CALPIA inmate workers.

Creation, Expansion, or Elimination of Existing Businesses (Small or Large) within the State of California

This action will not have an effect on the creation, expansion, or elimination of small or large businesses within California. It is determined that this action has no significant adverse economic impact on small or large businesses within the State of California because businesses are not affected by the internal management of CALPIA inmate workers.

BENEFITS OF THE PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed regulatory action will benefit CALPIA by providing a safe work environment and potentially avoiding the cost of human injury or property damage associated with substance abuse and will clarify that an inmate's refusal of drug/alcohol testing constitutes a drug violation. The proposed language will specify CALPIA's disciplinary action for the violation.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

CALPIA 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

The Department has determined that this action has no significant adverse economic impact on small businesses because they are not affected the internal management of CALPIA inmate workers.

CONSIDERATION OF ALTERNATIVES

CALPIA must determine that no reasonable alternative considered by CALPIA, or that has otherwise been identified and brought to the attention of CALPIA, 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 af-

affected private persons and equally effective implementing the statutory policy or other provision of law.

Interested persons are invited to submit written statements or arguments with respect to any alternatives to the changes proposed during the written comment period.

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

The Proposed Text and Initial Statement of Reasons have been placed in the rulemaking file and are available to the public upon request directed to CALPIA's contact person. The rulemaking file, which contains all the information upon which this proposal is based, is available for viewing at the location listed above under "Contact Persons."

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the PIB may approve the proposed regulations substantially as described in this Notice. If CALPIA 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 PIB reviews and approves the regulations as revised. The CALPIA will accept written comments on the modified regulations for 15 days after the date on which they are made available. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice or can be viewed by visiting the CALPIA website: <http://www.calpia.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from CALPIA's contact person or by visiting CALPIA's website: <http://www.calpia.ca.gov>.

AVAILABILITY OF DOCUMENTS ON CALPIA'S WEBSITE

All the various rulemaking documents are available on CALPIA's website at: <http://www.calpia.ca.gov>.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

PROPOSED RESEARCH AND RECOVERY OF FULLY PROTECTED SPECIES Research and Recovery of the San Francisco Garter Snake

The Department of Fish and Wildlife (Department) received a proposal on November 17, 2016, from Brett Hanshew, on behalf of Sequoia Ecological Consulting, Inc., requesting authorization to take the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) ('snake'), for scientific research and recovery purposes, consistent with conservation and recovery of the species. The snake is a Fully Protected reptile, and is also listed as Endangered under the California Endangered Species Act and Endangered under the federal Endangered Species Act.

Mr. Hanshew is requesting authorization to conduct surveys for the snake's presence, to conduct research on and monitor existing populations, to assist with habitat restoration, and to salvage dead specimens throughout the species' range in San Mateo, San Francisco, Santa Clara, and Santa Cruz Counties, in accordance with methods approved by the Department and the U.S. Fish and Wildlife Service (Service).

The proposed research and recovery activities include surveys and habitat assessments, capture of wild snakes by hand, hand-held reptile stick, and by terrestrial trap lines (i.e., funnel traps and drift fencing), taking of body measurements, and release. Population monitoring requires the ability to identify individuals in order to track their growth and survival through time. Mr. Hanshew is proposing to use standard marking methods for snakes including clipping ventral scales, micro-branding ventral scales, and/or implanting passive integrated transponder tags subcutaneously. During habitat restoration projects that will contribute to the recovery of the species, Mr. Hanshew may move snakes out of harm's way. If found, snake carcasses may be salvaged, and the remains donated to a public scientific institution as designated by the Department and the Service.

Mr. Hanshew, and any others working under his permit that are deemed qualified by the Department for this purpose, would conduct the activities described above, in order to provide population, distribution, and habitat association information and assess efficacy of recovery efforts. No adverse effects on individual snakes or snake populations are expected.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Mr. Hanshaw as the Principal Investigator, to carry out the proposed activities. The researchers are also required to have a valid federal recovery permit for the snake, and a scientific collecting permit (SCP) to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected reptile species after 30 days' notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected reptiles, it would issue the MOU on or after January 2, 2017, for an initial and renewable term of up to, but not to exceed, five years.

Contact: Laura Patterson, Laura.Patterson@wildlife.ca.gov, 916-341-6981.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

**NOTICE OF INTENT TO LIST PERTUZUMAB
September 30, 2016
Reissued December 2, 2016**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) intends to list pertuzumab as known to the state to cause reproductive toxicity (developmental endpoint) under the Safe Drinking Water and Toxic Enforcement Act of 1986¹. This action is being proposed under the "Formally Required to Be Labeled or Identified" listing mechanism².

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25902.

Chemical	CAS No.	Toxicological Endpoint	Reference
Pertuzumab	380610-27-5	Developmental toxicity	FDA (2015)

Background on listing via the formally required to be labeled or identified mechanism: A chemical must be listed under Proposition 65³ and its implementing regulations (Section 25902⁴) when a state or federal agency has formally required it to be labeled or identified as causing cancer or reproductive toxicity.

OEHHA is the lead agency for Proposition 65 implementation, and evaluates whether listing under Proposition 65 is required pursuant to the definitions set out in section 25902. According to Section 25902(b):

- “[F]ormally required’ means that a mandatory instruction, order, condition, or similar command, has been issued in accordance with established policies and procedures of an agency of the state or federal government to a person or legal entity outside of the agency. The action of such agency may be directed at one or more persons or legal entities and may include formal requirements of general application”;
- “[L]abeled’ means that a warning message about the carcinogenicity or reproductive toxicity of a chemical is printed, stamped, written, or in any other manner placed upon the container in which the chemical is present or its outer or inner packaging including any material inserted with, attached to, or otherwise accompanying such a chemical”;
- “[I]dentified’ means that a required message about the carcinogenicity or reproductive toxicity of the chemical is to be disclosed in any manner to a person or legal entity other than the person or legal entity who is required to make such disclosure”; and
- “As causing reproductive toxicity” means: “For chemicals that cause reproductive toxicity, the required label or identification uses any words or phrases intended to communicate a risk of reproductive harm to men or women or both, or a risk of birth defects or other developmental harm.”

OEHHA’s determination: *Pertuzumab* is a drug used to treat certain types of cancer. It has been identified and labeled to communicate a risk of reproductive harm (developmental endpoint) (FDA, 2015) in accordance with formal requirements by the US Food and

³ See Health and Safety Code section 25249.8(b).

⁴ All referenced regulatory sections are from Title 27 of the Cal. Code of Regulations.

Drug Administration (FDA). The FDA–approved label indicates that uses of *pertuzumab* during pregnancy can cause embryo–fetal death and birth defects. PERJETA® is a trade name of the drug *pertuzumab*.

Language from the FDA–approved product label (Reference ID 3769469; FDA, 2015) which meets the requirements of Section 25902 is quoted below:

Pertuzumab

Reproductive Toxicity (Developmental Endpoint)

Under HIGHLIGHTS OF PRESCRIBING INFORMATION:

“**WARNING: . . . EMBRYO–FETAL TOXICITY.** Embryo–fetal Toxicity: Exposure to PERJETA can result in embryo–fetal death and birth defects. Studies in animals have resulted in oligohydramnios, delayed renal development, and death. . . (5.2, 8.1, 8.6)”

Under FULL PRESCRIBING INFORMATION:

“**WARNING: . . . EMBRYO–FETAL TOXICITY.** Exposure to PERJETA can result in embryo–fetal death and birth defects. Studies in animals have resulted in oligohydramnios, delayed renal development, and death. . . (5.2, 8.1, 8.6)”

Under WARNINGS AND PRECAUTIONS:

“**5.2 Embryo–Fetal Toxicity.** PERJETA can cause fetal harm when administered to a pregnant woman. Treatment of pregnant cynomolgus monkeys with *pertuzumab* resulted in oligohydramnios, delayed fetal kidney development, and embryo–fetal death. If PERJETA is administered during pregnancy, or if the patient becomes pregnant while receiving this drug or within 7 months following the last dose of PERJETA in combination with *trastuzumab*, the patient should be apprised of the potential hazard to a fetus [*see Use in Specific Populations (8.1)*].”

“Verify pregnancy status prior to the initiation of PERJETA. Advise patients of the risks of embryo–fetal death and birth defects and the need for contraception during and after treatment. Advise patients to contact their healthcare provider immediately if they suspect they may be pregnant.”

Under USE IN SPECIFIC POPULATIONS:

“**8.1 Pregnancy. Pregnancy Category D.**

Risk Summary

There are no adequate and well–controlled studies of PERJETA in pregnant women. Based on findings in animal studies, PERJETA can cause fetal harm when administered to a pregnant woman. The effects of PERJETA are likely to be present during all trimesters of pregnancy. *Pertuzumab* administered to pregnant cynomolgus monkeys resulted in oligohydramnios, delayed fetal kidney development, and embryo–fetal deaths at clinically relevant exposures of 2.5 to 20–fold greater than the recommended human dose, based on C_{max} . If PERJETA is administered during pregnancy, or

if a patient becomes pregnant while receiving PERJETA or within 7 months following the last dose of PERJETA in combination with *trastuzumab*, the patient should be apprised of the potential hazard to the fetus.”

Animal Data

Reproductive toxicology studies have been conducted in cynomolgus monkeys. Pregnant monkeys were treated on Gestational Day (GD)19 with loading doses of 30 to 150 mg/kg *pertuzumab*, followed by bi–weekly doses of 10 to 100 mg/kg. These dose levels resulted in clinically relevant exposures of 2.5 to 20–fold greater than the recommended human dose, based on C_{max} . Intravenous administration of *pertuzumab* from GD19 through GD50 (period of organogenesis) was embryotoxic, with dose–dependent increases in embryo–fetal death between GD25 to GD70. The incidences of embryo–fetal loss were 33, 50, and 85% for dams treated with bi–weekly *pertuzumab* doses of 10, 30, and 100 mg/kg, respectively (2.5 to 20–fold greater than the recommended human dose, based on C_{max}). At Caesarean section on GD100, oligohydramnios, decreased relative lung and kidney weights, and microscopic evidence of renal hypoplasia consistent with delayed renal development were identified in all *pertuzumab* dose groups. *Pertuzumab* exposure was reported in offspring from all treated groups, at levels of 29% to 40% of maternal serum levels at GD100.”

“**8.6 Females of Reproductive Potential.** PERJETA can cause embryo–fetal harm when administered during pregnancy. Counsel patients regarding pregnancy prevention and planning. Advise females of reproductive potential to use effective contraception while receiving PERJETA and for 7 months following the last dose of PERJETA in combination with *trastuzumab*.”

Under PATIENT COUNSELING INFORMATION:

“Advise pregnant women and females of reproductive potential that PERJETA exposure can result in fetal harm, including embryo–fetal death or birth defects [*see Warnings and Precautions (5.2) and Use in Specific Populations (8.1)*].”

“Advise females of reproductive potential to use effective contraception while receiving PERJETA and for 7 months following the last dose of PERJETA in combination with *trastuzumab* [*see Warnings and Precautions (5.2) and Use in Special Populations (8.6)*].”

Request for comments: This notice was previously published in the September 30, 2016 issue of the California Regulatory Notice Register (Register 2016, No. 40–Z). However, it was inadvertently not posted on the OEHHA website at that time and OEHHA is again requesting comments as to whether this chemical meets the criteria set forth in the Proposition 65 regulations for listings via the formally required to be labeled or identified mechanism (Section 25902). Because this is a min-

isterial listing, comments should be limited to whether the FDA requires that *pertuzumab* be labeled to communicate a risk of developmental harm. OEHHA cannot consider scientific arguments concerning the weight or quality of the evidence considered by the FDA when it established the labeling requirement and will not respond to such comments if they are submitted.

In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Tuesday, January 3, 2017.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.Comments@oehha.ca.gov. Please include “pertuzumab” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the address below.

Mailing

Address: Michelle Ramirez
 Proposition 65 Implementation Program
 Office of Environmental Health Hazard Assessment
 P.O. Box 4010, MS-12B
 Sacramento, California 95812-4010

Fax: (916) 323-2265

Street

Address: 1001 I Street
 Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period.

If you have any questions, please contact Michelle Ramirez at Michelle.Ramirez@oehha.ca.gov or at (916) 445-6900.

References

Food and Drug Administration (FDA, 2015). FDA approved drug label for PERJETA® (pertuzumab), Reference ID 3769469, approved May-2015. Available at http://www.accessdata.fda.gov/drugsatfda_docs/label/2015/125409s105lbl.pdf.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

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

**NOTICE OF INTENT TO LIST VISMODEGIB
 September 30, 2016
 Reissued December 2, 2016**

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) intends to list vismodegib as known to the state to cause reproductive toxicity (developmental, female, and male endpoints) under the Safe Drinking Water and Toxic Enforcement Act of 1986¹. This action is being proposed under the “Formally Required to Be Labeled or Identified” listing mechanism².

Chemical	CAS No.	Toxicological Endpoint	Reference
Vismodegib	879085-55-9	Developmental toxicity Female reproductive toxicity Male reproductive toxicity	FDA (2015)

Background on listing via the formally required to be labeled or identified mechanism: A chemical must be listed under Proposition 65³ and its implementing regulations (Section 25902⁴) when a state or federal agency has formally required it to be labeled or identified as causing cancer or reproductive toxicity.

OEHHA is the lead agency for Proposition 65 implementation, and evaluates whether listing under Proposition 65 is required pursuant to the definitions set out in Section 25902. According to Section 25902(b):

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25902.

³ See Health and Safety Code section 25249.8(b).

⁴ All referenced regulatory sections are from Title 27 of the Cal. Code of Regulations.

- “[F]ormally required’ means that a mandatory instruction, order, condition, or similar command, has been issued in accordance with established policies and procedures of an agency of the state or federal government to a person or legal entity outside of the agency. The action of such agency may be directed at one or more persons or legal entities and may include formal requirements of general application”;
- “[L]abeled’ means that a warning message about the carcinogenicity or reproductive toxicity of a chemical is printed, stamped, written, or in any other manner placed upon the container in which the chemical is present or its outer or inner packaging including any material inserted with, attached to, or otherwise accompanying such a chemical”;
- “[I]dentified’ means that a required message about the carcinogenicity or reproductive toxicity of the chemical is to be disclosed in any manner to a person or legal entity other than the person or legal entity who is required to make such disclosure”; and
- “As causing reproductive toxicity” means: “For chemicals that cause reproductive toxicity, the required label or identification uses any words or phrases intended to communicate a risk of reproductive harm to men or women or both, or a risk of birth defects or other developmental harm.”

OEHHA’s determination: Vismodegib is a drug used to treat certain types of skin cancer. It has been identified and labeled to communicate a risk of reproductive harm (developmental, female, and male endpoints) (FDA, 2015) in accordance with formal requirements by the US Food and Drug Administration (FDA). The FDA–approved label indicates that uses of ERIVEDGE can cause embryo–fetal death or severe birth defects. Also, studies in animal models indicate that male and female reproductive function and fertility may be impaired in patients receiving ERIVEDGE. Erivedge is a trade name of a drug that is composed of vismodegib.

Language from the FDA–approved product label (Reference ID 3762266; FDA, 2015) which meets the requirements of Section 25902 is quoted below:

Vismodegib

Reproductive Toxicity (Developmental, Female and Male Endpoints)

Under HIGHLIGHTS OF PRESCRIBING INFORMATION:

“**WARNING: EMBRYO–FETAL TOXICITY.** See full prescribing information for complete boxed warning. ERIVEDGE can cause embryo–fetal death or

severe birth defects when administered to a pregnant woman. ERIVEDGE is embryotoxic, fetotoxic, and teratogenic in animals. Teratogenic effects included severe midline defects, missing digits, and other irreversible malformations. . . . Advise pregnant women of the potential risks to a fetus.”

“**USE IN SPECIFIC POPULATIONS.** “Females and Males of Reproductive Potential: May cause amenorrhea in females. (8.3)”

Under FULL PRESCRIBING INFORMATION:

“**WARNING: EMBRYO–FETAL TOXICITY.** ERIVEDGE can cause embryo–fetal death or severe birth defects when administered to a pregnant woman. ERIVEDGE is embryotoxic, fetotoxic, and teratogenic in animals. Teratogenic effects included severe midline defects, missing digits, and other irreversible malformations. . . .

[See *Warnings and Precautions (5.1, 5.3), Use in Specific Populations (8.1, 8.3)*].”

Under WARNINGS AND PRECAUTIONS:

“**5.1 Embryo–Fetal Toxicity.** Based on its mechanism of action, ERIVEDGE can cause embryo–fetal death or severe birth defects when administered to a pregnant woman. In animal reproduction studies, vismodegib was embryotoxic, fetotoxic, and teratogenic at maternal exposures lower than the human exposures at the recommended dose of 150 mg/day . . . [see *Use in Specific Populations (8.1, 8.3) and Clinical Pharmacology (12.1)*].”

Under ADVERSE REACTIONS:

“**6.1 Clinical Trials Experience.** Amenorrhea: In clinical trials, a total of 3 of 10 pre–menopausal women developed amenorrhea while receiving ERIVEDGE [see *Non Clinical Toxicology (13.1)*].”

Under USE IN SPECIFIC POPULATIONS:

“**8.1 Pregnancy.** Risk Summary. Based on its mechanism of action and animal reproduction studies, ERIVEDGE can cause fetal harm when administered to a pregnant woman [see *Clinical Pharmacology (12.1)*]. In animal reproduction studies, oral administration of vismodegib during organogenesis at doses below the recommended human dose resulted in embryotoxicity, fetotoxicity, and teratogenicity in rats [see *Data*]. There are no human data on the use of ERIVEDGE in pregnant women.”

“Data

Animal Data. In an embryo–fetal developmental toxicity study, pregnant rats were administered vismodegib orally at doses of 10, 60, or 300 mg/kg/day during the period of organogenesis. Pre–and post–implantation loss were increased at doses of ≥ 60 mg/kg/day (approximately ≥ 2 times the systemic exposure (AUC) in patients at the recommended human dose), which included early resorption of 100% of the fetuses.

A dose of 10 mg/kg/day (approximately 0.2 times the AUC in patients at the recommended dose) resulted in malformations (including missing and/or fused digits, open perineum and craniofacial anomalies) and retardations or variations (including dilated renal pelvis, dilated ureter, and incompletely or unossified sternal elements, centra of vertebrae, or proximal phalanges and claws).”

“8.3 Females and Males of Reproductive Potential. Contraception.

Females. Based on its mechanism of action and animal data, ERIVEDGE can cause fetal harm when administered to a pregnant woman [see *Use in Specific Populations (8.1)*]. Advise females of reproductive potential to use effective contraception during therapy and for 7 months after the final dose of ERIVEDGE.”

“Infertility.

Females. Amenorrhea can occur in females of reproductive potential. Reversibility of amenorrhea is unknown [see *Adverse Reactions (6)*].”

Under NONCLINICAL TOXICOLOGY:

“13.1 Carcinogenesis, Mutagenesis, Impairment of Fertility. Studies to assess the potential of vismodegib to affect fertility have not been conducted; however, data from repeat-dose toxicology studies in rats and dogs indicate that male and female reproductive function and fertility may be impaired in patients receiving ERIVEDGE capsule. In a 26-week toxicology study in rats, a relative decrease in percent motile sperm was observed at ≥ 15 mg/kg/day (approximately ≥ 0.3 times the AUC in patients at the recommended human dose). In dogs, increased numbers of degenerating germ cells and hypospermia were observed in young animals administered oral vismodegib for 4 weeks at ≥ 50 mg/kg/day (approximately ≥ 2 times the AUC in patients at the recommended human dose). No corresponding findings were observed in sexually mature dogs at similar doses in 13-week and 26-week toxicology studies. A decrease in the number of corpora lutea was observed in female rats administered oral vismodegib for 26 weeks at 100 mg/kg/day (approximately 0.8 times the AUC in patients at the recommended human dose).”

Under PATIENT COUNSELING INFORMATION:

“Embryo–Fetal Toxicity. Advise pregnant women of the potential risk to a fetus [see *Warnings and Precautions (5.1) and Use in Specific Populations (8.1)*].”

Under MEDICATION GUIDE:

“ERIVEDGE can cause your baby to die before it is born (be stillborn) or cause your baby to have severe birth defects.”

Request for comments: This notice was previously published in the September 30, 2016 issue of the California Regulatory Notice Register (Register 2016, No. 40–Z). However, it was inadvertently not posted on the OEHHA website at that time and OEHHA is again requesting comments as to whether this chemical meets the criteria set forth in the Proposition 65 regulations for listing via the formally required to be labeled or identified mechanism (Section 25902). Because this is a ministerial listing, comments should be limited to whether the FDA requires that *vismodegib* be labeled to communicate a risk of reproductive or developmental harm. OEHHA cannot consider scientific arguments concerning the weight or quality of the evidence considered by the FDA when it established the labeling requirement and will not respond to such comments if they are submitted.

In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Tuesday, January 3, 2017.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.Comments@oehha.ca.gov. Please include “vismodegib” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the address below.

Mailing

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Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period.

If you have any questions, please contact Michelle Ramirez at Michelle.Ramirez@oehha.ca.gov or at (916) 445–6900.

References

Food and Drug Administration (FDA, 2015). FDA approved drug label for ERIVEDGE (vismodegib), Reference ID 3762266, revised 5–2015. Available at

http://www.accessdata.fda.gov/drugsatfda_docs/label/2015/203388s005s006s007s008lbl.pdf

**RULEMAKING PETITION
DECISIONS**

BOARD OF PAROLE HEARINGS

**RESPONSE TO REQUEST FOR
RECONSIDERATION OF PETITION TO
ADOPT, AMEND, OR REPEAL A
REGULATION PURSUANT TO
GOVERNMENT CODE SECTIONS 11340.6
AND 11340.7**

**BPH PETITION RECONSIDERATION
RESPONSE 2016-04-R-01**

The Board of Parole Hearings (board) received a Request to Reconsider Petition to Adopt, Amend, or Repeal a Regulation under Government Code sections 11340.6 and 11340.7, previously identified as BPH Response 2016-04 from the original petitioner, William Vogel, on October 21, 2016.

The board’s original response, identified as BPH Response 2016-04, was published in the notice register on October 14, 2016. Since this request for reconsideration was received within 60 days from the date of the original petition, in accordance with subdivision (c) of section 11340.7, this document serves as the board’s response to the request for reconsideration.

The following information is provided with the response in compliance with subdivision (d) of Government Code section 11340.7:

1. **NAME OF AGENCY:** Board of Parole Hearings
2. **PARTY SUBMITTING THE PETITION** William Vogel (P88353)
3. **PROVISIONS OF THE CALIFORNIA CODE OF REGULATIONS (CCR) REQUESTED TO BE AFFECTED:** Petitioner requested the board to repeal the California Code of Regulations, title 15, sections 2281, 2402, 2403, 2422, 2423, 2431, 2432, and 2433.
4. **REFERENCE TO AUTHORITY TO TAKE THE ACTION:** Petitioner cited to Penal Code section 1170.2, *In re Rodriguez* (1975) 14 Cal.3d 639, *In re Rogers* (1980) 28 Cal.3d 429, and *In re Butler*, Stipulation and Order Regarding Settlement, First Appellate District Court of California Case No. A139411, De-

ember 16, 2013; hereinafter “*Butler* 2013 stipulated agreement.”

5. **REASONS SUPPORTING THE AGENCY’S DECISION:** Petitioner still contends that the board is required under Penal Code section 1170.2 and the *Butler* 2013 stipulated agreement combine to require the board to fix maximum determinate terms for all inmates, including those sentenced to terms of life under Penal Code section 1168(b). Petitioner also still contends that, after the inmate’s term has been “fixed,” the board is mandated to release the inmate once he or she reaches the end of this term, regardless of the inmate’s suitability for parole. Based on these contentions, Petitioner requests the board to reconsider the “merits” of his prior petition to repeal all portions of the Code of Regulations, title 15, sections 2281, 2402, 2403, 2422, 2423, 2431, 2432, and 2433 that authorize the board to indefinitely retain an inmate in prison until the inmate is deemed suitable for parole at a parole consideration hearing before the board. Additionally, Petitioner requests the board to implement Determinate Sentence Length (DSL) “term fixing” for life crimes committed on or after January 1, 1979.

Petitioner’s request is DENIED: As thoroughly explained in the board’s original response, BPH Response 2016-04, Petitioner’s request as well as his contentions supporting his request are all still based on a misunderstanding of the language “fixing a term” under Penal Code section 1170.2. The correct application of these laws demonstrates that the board has no legal authority to take the actions Petitioner requests.

As explained in BPH Response 2016-04, Penal Code section 1170.2 applies only to inmates who committed their crimes before July 1, 1977, when California was under the indeterminate sentencing scheme. This statute required the state’s paroling authority to determine for those inmates what the specified sentence length would have been if the court had sentenced the inmate under the Determinate Sentencing Law, which became effective on July 1, 1977. If the paroling authority determined that the current specific sentence length would be less than the time required under the prior Indeterminate Sentencing Law, the paroling authority was required to establish the inmate’s parole date unless it determined, based on certain specific evidence, that the inmate should serve a longer term.

Following the enactment of Penal Code section 1170.2, all inmates sentenced to indeterminate sentence ranges for crimes committed before July 1, 1977, have had their sentences reviewed and recalculated, as appropriate. All inmates currently incarcerated with life terms were either (1) deemed under Penal Code section 1170.2 to have committed a crime before July 1, 1977, that still retained a life sentence following the enactment of the Determinate Sentencing Law or (2) proper-

ly sentenced by the court to a life term for a crime committed after July 1, 1977. Therefore, no inmates currently exist within the custody of the California Department of Corrections and Rehabilitation for whom the board can “fix a term” within the meaning of Penal Code section 1170.2.

Additionally, the *Butler* 2013 stipulated agreement similarly provides the board with no legal authority to set maximum determinate terms for inmates currently sentenced to life terms. As also explained in BPH Response 2016–04, the purpose of calculating a final term under Penal Code section 3041 was not to establish a fixed date of release regardless of whether the inmate was suitable for parole. Rather, the purpose was to establish a minimum amount of time that the inmate would be required to serve that would “provide uniform terms for offenses of similar gravity and magnitude with respect to their threat to the public.” (See former Pen. Code, § 3041, subd. (a) as amended by Stats. 2013, c. 312.) Moreover, following the enactment of Senate Bill 230 (2015–2016 regular session), which amended Penal Code section 3041 to remove the board’s authority to set parole release dates; these terms no longer have any legal effect on when an inmate is actually eligible for release. Instead, eligibility for parole of a life inmate is dictated solely by when the inmate is deemed suitable for parole in accordance with Penal Code section 3041 and the California Code of Regulations, title 15, sections 2281 and 2402.

To carry out the board’s current statutory mandates of (1) determining a life inmate’s suitability for parole and (2) calculating a minimum term as required by the 2013 *Butler* stipulated agreement, the board must follow the requirements in each of the sections Petitioner has requested the board to repeal. Moreover, the board has no legal authority to set maximum determinate terms for inmates sentenced to life terms of any length, either with or without the possibility of parole. Instead, all inmates currently sentenced to life terms with the possibility of parole are subject to Penal Code section 3041. This section requires the board to hold hearings to determine suitability for parole before those inmates may be eligible for parole from their life terms. Thus, the board is legally prohibited from promulgating new regulations that would contravene section 3041 by setting maximum dates for inmates serving life terms and allowing those inmates to bypass the suitability hearing process.

Consequently, the board **DENIES** petitioner’s request for reconsideration of his petition because the board is legally barred from taking the actions petitioner requests.

6. BOARD CONTACT PERSON:

Heather L. McCray
Senior Staff Attorney
Board of Parole Hearings
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Office: (916) 322–6729
Fax: (916) 322–3475
BPH.Regulations@cdcr.ca.gov

7. NOTICE TO INTERESTED PERSONS: Under subdivision (d) of Government Code section 11340.7, the board will provide a copy of this decision to the Office of Administrative Law for publication in the California Regulatory Notice Register. Any interested persons have the right to obtain a copy of the petition that is the subject of this decision by sending a request to the board.

In submitting such a request, please reference **BPH PETITION RECONSIDERATION RESPONSE 2016–04–R–01** in the request.

DATE OF DECISION: November 18, 2016

**CALIFORNIA VICTIM
COMPENSATION BOARD**

**RESPONSE TO PETITION TO ADOPT,
AMEND, OR REPEAL A REGULATION
PURSUANT TO GOVERNMENT CODE
SECTIONS 11340.6 AND 11340.7**

**VICTIM COMPENSATION BOARD PETITION
RESPONSE 2016–01**

The California Victim Compensation Board (CalVCB) received a Petition to Adopt, Amend, or Repeal a Regulation under Government Code sections 11340.6 and 11340.7 (hereinafter “Petition”) from Stephanie Richard on behalf of Coalition to Abolish Slavery & Trafficking (hereinafter “Petitioner”) on October 20, 2016. In accordance with section 11340.7, subdivision (a), this document serves as CalVCB’s response to the Petition.

The following information is provided with the response in compliance with subdivision (d) of Government Code section 11340.7:

- 1. NAME OF AGENCY:** Victim Compensation Board
- 2. PARTY SUBMITTING THE PETITION:** Stephanie Richard, Coalition to Abolish Slavery & Trafficking
- 3. PROVISIONS OF THE CALIFORNIA CODE OF REGULATIONS (CCR) REQUESTED**

TO BE AFFECTED: Petitioner requests that CalVCB amend Title 2, CCR, section 649.32 regarding verification of income or support loss, and section 649.7 regarding complete applications.

4. REFERENCE TO AUTHORITY TO TAKE THE ACTION: Petitioner references the following Government Code sections as authorizing the action requested: section 13950, subdivision (a) [Legislative Findings and Declarations]; section 13955, subdivision (f)(3)(A) [Eligibility Requirements]; section 13956, subdivision (b)(4) [Non-Eligible Persons; Eligibility of Certain Classes of Victims; Eligibility of Victims of Certain Crimes]; and section 13957, subdivision (a)(3) [Compensation for Pecuniary Loss].

5. REASONS SUPPORTING THE AGENCY'S DECISION: Petitioner requests that CalVCB amend existing regulations to authorize "income loss" compensation for victims of human trafficking for the value of the labor or services these victims were forced to provide on behalf of their traffickers. Specifically, Petitioner requests that CalVCB adopt regulations compensating victims of human trafficking for the labor or services provided valued upon the greater of the following: gross value of similar services in the relevant labor market; value of the labor as guaranteed under California law; actual income derived by the perpetrator; any other appropriate means, including the unlawful employment agreement; or the minimum wage in effect at the time of employment at a maximum of forty hours per week. Additionally, Petitioner requests that, for victims of human trafficking only, CalVCB amend existing regulations to make a statement under penalty of perjury from the applicant, along with a statement from a human trafficking caseworker, an authorized mental health provider, certified records documenting the applicant's status as a victim of human trafficking, or other consistent documentary evidence, acceptable evidence of income loss.¹

The need for assistance is obvious, and CalVCB remains committed to helping victims of human trafficking. Despite this commitment, regretfully, CalVCB is unable to adopt Petitioner's proposed amendments to existing regulations because the amendments are not within the scope of statutory authority conferred on CalVCB by the Government Code. CalVCB has authority to adopt and enforce regulations to administer the Victim Compensation Program. (Gov. Code, § 13950.) Those regulations, to be effective, must be within the scope of the authority conferred, must not

conflict with the statute that confers such authority, and must be reasonably necessary to effectuate the purpose of the statute conferring authority. (Gov. Code, §§ 11342.1, 11342.2.)

According to Government Code section 13950, subdivision (a), the purpose of CalVCB is to compensate victims "for the pecuniary losses they suffer as a direct result of criminal acts." "Pecuniary" losses are defined as the "economic loss or expense resulting from an injury or death to a victim of crime that has not been and will not be reimbursed from any other source." (Gov. Code, § 13951, subd. (e).) For a victim to be eligible for reimbursement, the underlying crime must have caused physical injury or emotional injury and a threat of physical injury, unless the crime is human trafficking. (Gov. Code, § 13955, subs. (0)(1) & (f)(2).) For victims of human trafficking, emotional injury alone is sufficient. (Gov. Code, § 13955, subd. (f)(3).)

When a victim has suffered a qualifying injury and is not otherwise ineligible for reimbursement (see Gov. Code, § 13956), CalVCB "may grant for pecuniary loss" for among other things, "compensation equal to the loss of income" that a victim incurs as a direct result of the injury or death (Gov. Code, § 13957, subd. (a)(3).) Loss of income may not be paid for more than five years following the crime, and the total award on behalf of each victim shall not exceed \$35,000, or \$70,000 if federal funds for that increase are available. (Gov. Code, §§ 13957, subd. (b), 13957.5, subd. (a)(1).) CalVCB may require and use documentation from the Internal Revenue Service and Franchise Tax Board, among other specified governmental agencies, "to verify the amount of compensation for income or support loss." (Gov. Code, § 13952, subd. (c)(3); see Code of Regs., tit. 2, § 649.32 [Verification of Income or Support Loss].)

Petitioner is not seeking compensation for "income loss" as that phrase is commonly understood and authorized in the statutes governing CalVCB. If Petitioner was seeking income loss compensation, there would be no need to amend or adopt new regulations because CalVCB's regulations already address the circumstance. Indeed, a person gainfully employed before being unlawfully trafficked could obtain compensation from CalVCB for the income lost during the period in which he or she was unlawfully trafficked. (Code of Regs., tit. 2, § 649.32, subd. (b).) And, a person in this situation would have access to at least one form of the acceptable evidence of income loss currently included in CalVCB's regulations. (Code of Regs., tit. 2, § 649.32, subd. (d).)

Petitioner instead seeks a new category of compensation specific to victims of human trafficking, under which victims would be compensated for the value of the services they were forced to perform while being il-

¹ CalVCB recognizes human trafficking is a unique crime, and has implemented various amendments to the statutes governing the Victim Compensation Program to ensure that these victims are able to access necessary services. (See e.g., Gov. Code, § 13956, subs. (b)(1) and (b)(4).)

legally trafficked, even if they were previously unemployed. Contending that this is an “economic loss” for which victims should be reimbursed, Petitioner relies, in part, on Penal Code section 1202.4, for support. Section 1202.4, subdivision (q), mandates that a defendant be ordered to pay restitution to human trafficking victims for the value of services provided or the actual income derived from those services, whichever is greater. However, direct victim restitution from a defendant serves a different purpose than compensation from CalVCB. Direct victim restitution ensures that amends are made to society for a breach of the law, serves a rehabilitative purpose, and acts as a deterrent to future criminality. (*People v. Moser* (1996) 50 Cal.App.4th 130, 135.) On the other hand, compensation from CalVCB is designed to indemnify victims of violent crimes for their pecuniary losses. Petitioner is not requesting compensation for a pecuniary loss.

For these reasons, CalVCB lacks the statutory authority to amend existing regulations to authorize — as income loss — compensation for victims of human trafficking for the value of labor or services they were forced to provide on behalf of their traffickers.

6. BOARD CONTACT PERSON:

Larenda R. Delaini
Chief Counsel
California Victim Compensation Board
P.O. Box 48
Sacramento, CA 95812-0048
Office: (916) 491-3773
E-Mail: Larenda.Delaini@Victims.ca.gov

7. NOTICE TO INTERESTED PERSONS:

Pursuant to subdivision (d) of Government Code section 11340.7, CalVCB will provide a copy of this decision to the Office of Administrative Law for publication in the California Regulatory Notice Register. Any interested persons have the right to obtain a copy of the Petition that is the subject of this decision by sending a request to CalVCB. In submitting such a request, please reference **CALVCB PETITION RESPONSE 2016-01** in the request.

DATE OF DECISION: November 15, 2016

DEPARTMENT OF CONSERVATION

U.S. AND ELECTRONIC MAIL

Mr. David Reed
Environmental Action Center
1000 Vermont Avenue, NW
Suite 1000
Washington, D.C. 20005
David.Reed@environmentalactioncenter.org

RE: Decision on Petition for Rulemaking to Amend the Well Stimulation Treatment and Underground Injection Control Class II Regulations

Dear Mr. Reed:

The Department of Conservation received and considered the Environmental Action Center’s (EAC) petition for rulemaking dated October 25, 2016 (Petition). The Petition requests amendments to the Division of Oil, Gas, and Geothermal Resources’ (Division) well stimulation treatment (WST) and underground injection control (UIC) Class II regulations as subsequently described. The Department appreciates the EAC’s interest in our WST and UIC programs and issues this decision on the Petition according to Government Code section 11340.7.

Section 11340.7 requires a decision on a petition for rulemaking to identify (1) the agency, (2) the party submitting the petition, (3) the provisions of the California Code of Regulations requested to be affected, (4) reference to authority to take the action requested, (5) the reasons supporting the agency determination, (6) an agency contact person, and (7) the right of interested persons to obtain a copy of the petition from the agency.

Agency Responding to the Petition

The Department hereby responds to the Petition, which seeks a decision on the rulemaking request from the “Director of the California Department of Conservation.”

EAC submitted copies of the Petition to officers at the Department, its Division of Oil, Gas, and Geothermal Resources, and the California Natural Resources Agency, which oversees the Department. As the Agency’s assistant general counsel Heather Baugh informed you by email on October 26, 2016, the Agency does not promulgate WST or UIC regulations. The Division promulgated the regulations sought to be amended and has the expertise necessary to evaluate the issues raised in the Petition. Accordingly, the Division played a key role in deciding upon on the Petition.

Petitioner

David Reed submitted the Petition on behalf of the Environmental Action Center.

California Code of Regulations Requested to Be Affected

The Petition requests specific amendments to the WST regulations at California Code of Regulations, title 14, sections 1783.1 and 1784. The Petition more generally requests that the UIC regulations be amended to include chemical testing and disclosure requirements that are the same as, or more stringent than, those currently required for WST. The UIC regulations are at California Code of Regulations, title 14, sections 1724.6 through 1724.10.

Authority to Take the Action Requested

Public Resources Code sections 3013 and 3106 authorize the Director of the Department and the State Oil and Gas Supervisor of the Division to adopt and amend regulations related to the Division's WST and UIC programs.

Agency Determination and Supporting Reasons

Upon considering the request for rulemaking, the Department, in consultation with the Division, denies the Petition for the reasons that follow.

WST Regulations (Sections 1783.1 and 1784)

The request is to amend Sections 1783.1 and 1784 to increase the size of the area for identifying wells, well bores, and water in analyzing and designing the WST when applying for a WST permit. The size would increase from the existing requirement of two times the axial dimensional stimulation area (ADSA) to five times the ADSA or one-quarter mile radius from the point of injection, whichever is greater. The Petition claims that the increase is necessary to provide the information needed to ensure that WST fluids and hydrocarbons do not migrate into groundwater, potentially causing risks to human health and the environment.

The Department considered the Petition and has determined that the existing size of two times the ADSA provides the information needed to protect groundwater, human health, and the environment. The size was selected only after extensive public outreach and rulemaking efforts. Those efforts began in May 2012 and ended in December 2014 with Division adopting and the Office of Administrative Law approving the regulations that include Sections 1783.1 and 1784. During that time frame, the Division consecutively released four sets of regulations or revised regulations, held a public comment period for each set released, conducted 22 interactive public workshops or meetings statewide, and received more than 200,000 written or electronic public comments. A myriad of experts and other interested parties, including environmental groups, actively participated throughout the public outreach and rulemaking processes. As a result, the Division selected the size of the area of analysis based on considerable public input and the best available science. The regulations adopted took effect in July 2015, significantly increasing the regulatory oversight of WST in the state and the protection of human health and the environment.

While the Department appreciates the EAC's concerns, we do not have new information since the adoption of Sections 1783.1 and 1784 that warrants changing the size of the area of analysis. The ADSA was well designed with at least a 200 percent factor of safety for a one-time pressure treatment and reflects geologic factors, such as inherent fracture planes along which WST fractures would propagate. The larger, one-quarter

mile threshold suggested in the Petition seemingly derives from the idea that long-term injection would drive a pressure gradient up and keep it up over a much larger and diffuse area. This is not the case with WST, which is undertaken over very short portions of time unlike on-going operations regulated under the UIC program.

There are no fracture planes to consider, and the current regulations concept allows the Division to decide that a feature (e.g., fault) is grounds to modify the area of analysis. The analysis is a critical part of any application for a WST permit, and the Division reviews each analysis to ensure it appropriately reflects the circumstances associated with the subject application.

UIC Regulations (Sections 1724.6 through 1724.10)

The Petition requests that the Division's UIC regulations be amended to subject UIC wells to at least the same chemical testing and disclosure requirements as those that apply to WST. The amendments would purportedly correct a deficiency in Senate Bill 1281 (Pavley, Chapter 561, Stats. of 2014), which established strict disclosure requirements for reporting the volume, but not the chemical makeup, of wastewater disposed of in Class II injection wells. The Petition indicates that the additional data would be useful to prevent irreversible damage to water resources and protect human health and the environment from potential groundwater contamination.

The Department has determined that there is no immediate need for UIC Class II regulations that require the chemical testing and disclosure requirements suggested in the Petition. We therefore decline to initiate rulemaking for that purpose. As the Petition acknowledges, Sections 1724.7 and 1724.10 of the existing UIC regulations require operators to provide to the Division a chemical analysis of the fluid to be injected into a Class II well before injection may commence or whenever the source of injection liquid changes. As a result, the Division can verify that the water injected is produced water or otherwise an oilfield-produced, water-based fluid (e.g., WST fluid) that operators may lawfully inject into a Class II well. Nothing is added to the produced water or other fluid after it is injected. Further, the UIC program allows injection only into a zone greater than 10,000 mg/L total dissolved solids or into exempt aquifers (which by definition are not underground sources of drinking water).

Although the Department is not initiating rulemaking for the reasons suggested in the Petition, we invite EAC to participate in the Division's current effort to amend the UIC regulations. Focused on protecting human health and the environment, the Division identified its immediate regulatory goals for its UIC program late last year and solicited public input on how best to achieve those goals. The Division then issued pre-rulemaking

draft regulations in January of this year and requested public comments into March. The Division is considering the input received and revising the draft regulations to initiate a formal rulemaking process. The Division will announce public comment hearings and additional comment periods when the formal rulemaking process is publicly noticed. Updates on the rulemaking and related materials are available on our website at http://www.conservation.ca.gov/dog/general_information/Pages/UICupdate.aspx.

Agency Contact Person

Cassie Aw–yang is the Department’s contact person for any inquiries involving the Petition and this decision. She is available at cassie.aw-yang@conservation.ca.gov, (916) 323–6733, or California Department of Conservation, Legal Office, 801 K Street, MS 24–03, Sacramento, California 95814.

Availability of Petition

Any interested person may request and obtain a copy of the Petition from Ms. Aw–yang as specified above.

Thank you for your interest in the Division’s WST and UIC programs. If you have any questions or concerns, please contact Ms. Aw–yang using the above-listed contact information.

Sincerely,

David Bunn Director

cc: Ken Harris, State Oil and Gas Supervisor, Department of Conservation
Bruce Reeves, Chief Counsel, Department of Conservation

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# 2016–1010–01
CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY
Investment in Mental Health Wellness Grant Program/Children’s Hospital Program 2008

This action by the California Health Facilities Financing Authority (Authority) revises the address of the Authority in the Children’s Hospital Program of 2008 Grant Application and Investment in Mental Health Wellness Grant Program Application along with corresponding revision dates in regulations that incorporate these forms by reference.

Title 4
AMEND: 7113, 7116, 7121, 7051, 7055
Filed 11/17/2016
Agency Contact:
Carolyn Aboubechara (916) 653–3213

File# 2016–1010–03
CALIFORNIA HIGHWAY PATROL
Commercial Vehicle Safety Alliance (CVSA) North American Standard (NAS) Out–of–Service Criteria

In this regular rulemaking, the California Highway Patrol is amending section 1239 in title 13 of the California Code of Regulations to incorporate by reference the Commercial Vehicle Safety Alliance, North American Standard Out–of–Service Criteria, April 1, 2016, Edition. The April 1, 2016, edition will replace the April 1, 2015, edition.

Title 13
AMEND: 1239
Filed 11/22/2016
Effective 01/01/2017
Agency Contact: Kristi McNabb (916) 843–3416

File# 2016–1014–05
CALIFORNIA HORSE RACING BOARD
Riding Rules

The California Horse Racing Board is amending title 4, section 1699, “Riding Rules” in the California Code of Regulations to more specifically define the term “interference” as “bumping, impeding, forcing or floating in or out or otherwise causing any other horse to lose stride, ground, momentum or position.” This rulemaking will also require enhanced penalties against jockeys who commit multiple infractions within a 60–day period or who jeopardize the safety of another horse or jockey.

Title 4
AMEND: 1699
Filed 11/22/2016
Effective 01/01/2017
Agency Contact: Philip Laird (916) 263–6025

File# 2016–1007–01
CALIFORNIA PRISON INDUSTRY AUTHORITY
CALPIA Reporting of arrest, conviction, or change in driving status

In this action, the California Prison Industry Authority amends personnel reporting requirements to ensure

that the General Manager is informed of employee arrests, convictions, or driving restrictions.

Title 15
AMEND: 8105
Filed 11/17/2016
Effective 01/01/2017
Agency Contact: Dawn Eger (916) 358-1612

File# 2016-1011-04
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Mental Health and Intellectual Disability Instruction and Training

This regulatory action by the Commission on Peace Officer Standards and Training amends section 1005 of title 11 of the California Code of Regulations to include new training officer course curriculum requirements regarding interaction with persons with mental illness or intellectual disability.

Title 11
AMEND: 1005
Filed 11/22/2016
Effective 11/22/2016
Agency Contact: Phil Caporale (916) 227-3915

File# 2016-1010-02
DELTA STEWARDSHIP COUNCIL
Definition of "significant impact" for single-year water transfers

The Sacramento-San Joaquin Delta Reform Act of 2009 (ACT) fundamentally reorganized the state's management of Delta water resources. The Act has two coequal goals: 1) a more reliable water supply for California, and 2) protection, restoration, and enhancement of the Delta. The Delta Stewardship Council (DSC) was required to adopt a legally enforceable Delta Plan. The Act gives the DSC the authority to enforce the Delta Plan by requiring any state or local agency that proposes to undertake a covered action to submit a certification of consistency with findings that set forth the reasons the covered action is or is not consistent with the Delta Plan. The Act defines the term "covered action" to refer, in part, to a project that "[w]ill have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta." The Act does not define the term "significant impact," but in 2013, DSC adopted a regulatory definition of that term, as title 23, section 5001(dd). This rulemaking action amends that definition. At the time the definition was adopted it was determined that certain categories for projects would not have a significant impact, including single-year water

transfers with a specified time frame. DSC determined that single-year water transfers occurring between the date of the adoption of the Delta Plan and the end of 2016 would not have a significant impact on the coequal goals. This sunset date was established to allow DSC to gather further information about single-year water transfers. To gather further evidence about single-year water transfers DSC consulted with the Department of Water Resources, State Water Resources Control Board and others to develop recommendations for potential updates to the regulation. At several meetings in 2015 DSC received additional information on single-year water transfers, including in the form of public comments and in the form of presentations from subject matter experts. Following this review, DSC determined to move forward with this rulemaking to remove the sunset date for the determination regarding single-year water transfers.

Title 23
AMEND: 5001
Filed 11/22/2016
Effective 01/01/2017
Agency Contact: Anthony Navasero

File# 2016-1026-03
DEPARTMENT OF FOOD AND AGRICULTURE
Application and Fees

This change without regulatory effect by the Department of Food and Agriculture corrects the citation to a subdivision that is cross-referenced in section 3024.8. The correction is necessary due to the relettering of the cited subdivision that occurred in an action that was filed with the Secretary of State on 9/27/2016, effective 10/1/2016 (OAL file no. 2016-0826-04FP). The Department also corrects the word "preformed" to "performed."

Title 3
AMEND: 3024.8
Filed 11/22/2016
Agency Contact: Sara Khalid (916) 403-6625

File# 2016-1115-02
DEPARTMENT OF FOOD AND AGRICULTURE
Asian Citrus Psyllid Interior Quarantine

This emergency regulatory action by the Department of Food and Agriculture will expand the quarantine area for the Asian Citrus Psyllid ((ACP) *Diaphorina citri*) in the Delano area of Kern County and the Stratford area of Kings County. The effect of the emergency action is to provide authority for the state to perform quarantine activities against ACP within this established area, along with the many already existing regulated areas in the state.

Title 3
 AMEND: 3435(b)
 Filed 11/17/2016
 Effective 11/17/2016
 Agency Contact: Sara Khalid (916) 403-6625

File# 2016-1012-02
 DEPARTMENT OF PUBLIC HEALTH
 Public Pools

This rulemaking by the Department of Public Health (Department) amends section 334 in Title 22 of the California Code of Regulations regarding public pool maintenance and operation. Currently, the regulations require that operators test for and maintain combined-chlorine concentrations at 0.4 parts per million (ppm). That requirement is removed in this action.

Title 22
 AMEND: 65523, 65529, 65530
 Filed 11/22/2016
 Effective 01/01/2017
 Agency Contact: Dawn Basciano (916) 440-7367

File# 2016-1024-02
 FAIR POLITICAL PRACTICES COMMISSION
 Guide to Gift Regulations

This rulemaking action by the Fair Political Practices Commission amends the guide to gift regulations in section 18940 of title 2 of the California Code of Regulations.

OAL's review of FPPC proposed regulations is limited to the provisions of the APA as it was enacted on June 4, 1974, when voters adopted the California Political Reform Act. (Fair Political Practices Commission v. Office of Administrative Law, Linda Stockdale Brewer, (April 27, 1992, C010924 [nonpub. opn.].) OAL's review is limited to determining if the proposed regulations comply with "the form and style prescribed by the Secretary of State. If the department approves the regulation or order of repeal for filing, it shall endorse on the certified copy thereof its approval for filing and shall transmit such copy to the Secretary of State." (Former Gov. Code, sec. 11380.2, repealed by Stats. 1979, ch. 567, § 2.)

Title 2
 AMEND: 18940
 Filed 11/22/2016
 Effective 12/22/2016
 Agency Contact: Cesar R. Cuevas (916) 324-3859

File# 2016-1005-02
 FISH AND GAME COMMISSION
 Animals of California Declared to be Endangered or Threatened

This action designates the grey wolf as an endangered species.

Title 14
 AMEND: 670.5
 Filed 11/17/2016
 Effective 01/01/2017
 Agency Contact: Sheri Tiemann (916) 654-9872

File# 2016-1108-02
 FRANCHISE TAX BOARD
 Procedures and Standards on Requests for Release

In this emergency rulemaking action, the Franchise Tax Board (FTB) adopts two new sections of Title 18 of the California Code of Regulations concerning taxpayers who are listed on the FTB's certified list of the 500 largest tax delinquents, pursuant to Revenue and Taxation Code section 19195, and who, therefore, are subject to state agency license suspensions, denials, non-renewals, or the like, pursuant to Business and Professions Code section 494.5. The sections provide an administrative hearing process for taxpayers to challenge the FTB's denial of a request to be removed from the list of taxpayers reported to state licensing agencies and standards for determining financial hardship.

Title 18
 ADOPT: 19195-1, 19195-2
 Filed 11/17/2016
 Effective 11/17/2016
 Agency Contact: Christy Keith (916) 845-6080

File# 2016-1007-04
 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT
 California Competes Tax Credit

This rulemaking action by the Governor's Office of Business and Economic Development revises sections 8000 and 8030 in title 10 of the California Code of Regulations to modify the California Competes Tax Credit (CCTC) program application process and update definitions utilized in the administration of the CCTC program.

Title 10
 AMEND: 8000, 8030
 Filed 11/21/2016
 Effective 01/01/2017
 Agency Contact: Kristen Kane (916) 323-3880

File# 2016-1007-03
 STATE LANDS COMMISSION
 Reformatted Forms — Updated Revision Date

This action by the State Lands Commission makes changes without regulatory effect by making formatting changes to the Notice of Violation and Statement of Defense forms Incorporated by reference in title 2, California Code of Regulations sections 3001 and 3004.

Title 2
 AMEND: 3001(a)(9), 3004(c)
 Filed 11/17/2016
 Agency Contact: Warren Crunk (916) 574-1935

1866.7, 1866.8, 1866.9, 1866.9.1,
 1866.10, 1866.12, 1866.13, 1866.14
 07/11/16 AMEND: 59560
 06/27/16 AMEND: 1897
 06/23/16 ADOPT: 17010, 17011, 17012, 17013,
 17014, 17030, 17031, 17032, 17033,
 17034, 17035, 17036, 17037, 17038,
 17039, 17040, 17041, 17042, 17043,
 17044, 17045, 17046, 17047 REPEAL:
 17010, 17030, 17111, 17112, 17113,
 17120, 17121, 17122, 17130, 17140,
 17141, 17142, 17150, 17151, 17152,
 17153, 17160, 17200, 17201, 17210,
 17220, 17300, 17400, 17402, 17403,
 17404, 17405, 17406, 17408, 17412,
 17414, 17416, 17418, 17420, 17422,
 17424, 17426, 17430, 17432, 17434,
 17435, 17436, 17440, 17442, 17444,
 17446, 17448, 17450, 17452, 17454,
 17458, 17460, 17461, 17463, 17464,
 17466, 17468, 17470, 17471, 17473,
 17475, 17477, 17478, 17481, 17482,
 17483, 17485, 17486, 17488, 17490,
 17491, 17493, 17495, 17498, 17500,
 17502, 17504, 17508, 17510, 17512,
 17514, 17515, 17516, 17518, 17519,
 17520, 17521, 17525, 17527, 17528,
 17530, 17532, 17534, 17538, 17542,
 17544, 17546, 17548, 17550, 17551,
 17552, 17553, 17554, 17555, 17556,
 17557, 17558, 17559, 17560, 17561,
 17562, 17563, 17564, 17565, 17566,
 17567, 17570, 17571, 17572, 17575,
 17576, 17580, 17581, 17582, 17588,
 17590, 17592

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN June 22, 2016 TO
 November 23, 2016**

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

Title 2

11/22/16 AMEND: 18940
 11/17/16 AMEND: 3001(a)(9), 3004(c)
 11/10/16 ADOPT: 554.2 AMEND: 554, 554.1,
 554.2, 554.3, 554.4, 554.5, 554.6, 554.7,
 554.8, 554.9, 554.10
 10/18/16 AMEND: 18951
 10/03/16 ADOPT: 649.49 AMEND: 649, 649.3,
 649.4, 649.18, 649.50, 649.52, 649.57,
 649.60 REPEAL: 649.1, 649.46, 649.51,
 649.62
 09/19/16 ADOPT: 18751 REPEAL: 18751
 09/19/16 AMEND: 18215.3, 18232
 09/15/16 AMEND: 18942
 09/13/16 AMEND: 1181.2, 1181.3, 1181.6,
 1183.1, 1183.2, 1183.3, 1183.8, 1183.9,
 1183.10, 1183.11, 1183.14, 1183.15,
 1183.17, 1183.18, 1185.1, 1185.2,
 1185.3, 1185.4, 1185.5, 1187.4, 1187.6,
 1187.7, 1187.8, 1187.9, 1187.14,
 1187.15, 1190.1, 1190.2, 1190.3, 1190.5
 09/07/16 ADOPT: 3000, 3001, 3002, 3003, 3004,
 3005, 3006, 3007, 3008, 3009, 3010,
 3011, 3012, 3013, 3014, 3015, 3016
 08/31/16 AMEND: 18531.5
 08/17/16 AMEND: 18239
 08/17/16 AMEND: 59000
 07/29/16 ADOPT: 599.860
 07/13/16 AMEND: 1859.2, 1859.102 REPEAL:
 1866, 1866.1, 1866.2, 1866.3, 1866.4,
 1866.4.1, 1866.4.2, 1866.4.3, 1866.4.4,
 1866.4.6, 1866.4.7, 1866.5, 1866.5.1,
 1866.5.2, 1866.5.3, 1866.5.4, 1866.5.5,
 1866.5.6, 1866.5.7, 1866.5.8, 1866.5.9,

Title 3

11/22/16 AMEND: 3024.8
 11/17/16 AMEND: 3435(b)
 11/14/16 AMEND: 3435(b)
 11/09/16 AMEND: 3
 11/09/16 AMEND: 3435(b)
 11/08/16 AMEND: 3435(b)
 11/03/16 AMEND: 3589(a)
 11/02/16 ADOPT: 3591.28
 11/02/16 AMEND: 3591.12
 10/28/16 AMEND: 3435(b)
 10/28/16 AMEND: 3435(b)
 10/19/16 AMEND: 3435(b)
 10/17/16 ADOPT: 6722 AMEND: 6000, 6618,
 6619, 6720, 6723, 6723.1, 6724, 6726,
 6732, 6734, 6768.3, 6738.4, 6744, 6761,
 6761.1, 6762, 6764, 6766, 6768, 6769,
 6770, 6771, 6776, 6782
 10/13/16 AMEND: 3435(b)

10/12/16 ADOPT: 6302 AMEND: 6414
 10/06/16 REPEAL: 3963
 10/06/16 AMEND: 3435(b)
 09/30/16 AMEND: 3435(b)
 09/27/16 AMEND: 3435(b)
 09/27/16 AMEND: 4603, 3883 REPEAL: 3885
 09/21/16 ADOPT: 302, 303, 304, 304.1, 304.2, 305, 305.1, 305.2, 305.3, 306, 306.1, 306.2, 306.3, 307, 308, 309, 310, 310.1, 311, 312, 313, 314, 315, 316.1, 316.2, 316.3, 316.4, 317, 318, 319, 320.1, 320.2, 320.3, 321, 322, 322.1, 322.2, 322.3, 323, 323.1, 323.2, 324.1, 324.2, 325, 326, 327, 328, 329, 330.1, 330.2, 340
 09/20/16 AMEND: 3435(b)
 09/20/16 AMEND: 3435(b)
 09/16/16 AMEND: 3435(b)
 09/14/16 AMEND: 3435(b)
 09/07/16 ADOPT: 3442
 09/07/16 ADOPT: 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016
 08/29/16 ADOPT: 3591.26
 08/29/16 AMEND: 3435(b)
 08/29/16 AMEND: 3591.2
 08/26/16 AMEND: 3435(b)
 08/25/16 AMEND: 3435(b)
 08/24/16 AMEND: 3435(b)
 08/24/16 AMEND: 1358.7
 08/23/16 AMEND: 3435(b)
 08/03/16 AMEND: 3435(b)
 08/02/16 AMEND: 3435(b)
 08/01/16 AMEND: 3435(b)
 08/01/16 AMEND: 3435(b)
 07/25/16 AMEND: 3024.5
 07/25/16 AMEND: 3435(b)
 07/25/16 AMEND: 3435(b)
 07/25/16 AMEND: 3435(b)
 07/21/16 AMEND: 3435(b)
 07/20/16 AMEND: 3435(b)
 07/07/16 AMEND: 3435(b)
 07/05/16 AMEND: 3435(b)
 07/05/16 AMEND: 3435(b)
 06/30/16 ADOPT: 450, 450.1, 450.2, 450.3, 450.4, 451, 452
 06/30/16 AMEND: 3435(b)
 06/30/16 AMEND: 3435(b)
 06/28/16 AMEND: 3435(b)
 06/22/16 AMEND: 3435(b)
 06/22/16 AMEND: 3435(b)

Title 4

11/22/16 AMEND: 1699
 11/17/16 AMEND: 7113, 7116, 7121, 7051, 7055
 10/17/16 AMEND: 1843.3

10/13/16 AMEND: 1734
 10/11/16 ADOPT: 610
 09/28/16 AMEND: 1107
 09/28/16 AMEND: 1007
 09/15/16 ADOPT: 424, 425, 426, 830, 831, 832, 833, 834, 835, 836 AMEND: 201.5, 303
 09/13/16 ADOPT: 1489.2
 08/29/16 ADOPT: 8078.8, 8078.9, 8078.10, 8078.11, 8078.12, 8078.13, 8078.14
 08/09/16 AMEND: 10031, 10032, 10033, 10035, 10036
 07/25/16 AMEND: 1581, 1843
 07/19/16 AMEND: 5170
 07/19/16 ADOPT: 1866.1 AMEND: 1844
 07/05/16 AMEND: 1689.1
 06/29/16 AMEND: 8034, 8035

Title 5

11/15/16 ADOPT: 11524, 11525 AMEND: 11520, 11521, 11522
 09/22/16 ADOPT: 11533, 11534 AMEND: 11530, 11531
 08/30/16 ADOPT: 1700
 08/26/16 AMEND: 27000, 27004
 08/16/16 ADOPT: 80022 AMEND: 80025.3
 08/03/16 AMEND: 19810
 07/27/16 AMEND: 19810
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